

SERVE

2001

ILLINOIS

REGISTER RULES OF GOVERNMENTAL AGENCIES



Volume 25, Issue 06
February 09, 2001

Pages 2,204 – 2,450

Index Department
Administrative Code Div.
111 East Monroe Street
Springfield, IL 62756
(217) 782-7017
<http://www.cyberdriveillinois.com>

Printed on recycled paper

PUBLISHED BY JESSE WHITE • SECRETARY OF STATE

INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

REGISTER PUBLICATION SCHEDULE 2001

Issue #	Copy Due by 4:30 p.m.	Publication Date	Issue #	Copy Due by 4:30 p.m.	Publication Date
Issue 1	December 26, 2000	January 5, 2001	Issue 28	July 2	July 13
Issue 2	January 2, 2001*	January 12	Issue 29	July 9	July 20
Issue 3	January 8	January 19	Issue 30	July 16	July 27
Issue 4	January 16*	January 26	Issue 31	July 23	August 3
Issue 5	January 22	February 2	Issue 32	July 30	August 10
Issue 6	January 29	February 9	Issue 33	August 6	August 17
Issue 7	February 5	February 16	Issue 34	August 13	August 24
Issue 8	February 13*	February 23	Issue 35	August 20	August 31
Issue 9	February 20*	March 2	Issue 36	August 27	September 7
Issue 10	February 26	March 9	Issue 37	September 4*	September 14
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Issue 16	April 9	April 20	Issue 43	October 15	October 26
Issue 17	April 16	April 27	Issue 44	October 22	November 2
Issue 18	April 23	May 4	Issue 45	October 29	November 9
Issue 19	April 30	May 11	Issue 46	November 5	November 16
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Issue 21	May 14	May 25	Issue 48	November 19	November 30
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Issue 24	June 4	June 15	Issue 51	December 10	December 21
Issue 25	June 11	June 22	Issue 52	December 17	December 28
Issue 26	June 18	June 29	Issue 1	December 26 (Wed. Noon)	January 4, 2002
Issue 27	June 25	July 6			

* Tuesday 12 noon deadline following a state holiday.

** Monday publication date following a state holiday.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: State Vehicles and Garage
- 2) Code Citation: 44 Ill Adm. Code 5040
- 3) Section Number: 5040.350
Proposed Action: Amend
- 4) Statutory Authority: Implementing Sections 405-280, 405-285 and 405-215 of the Department of Central Management Services Law [20 ILCS 405/405-280, 405-285 and 405-215] and authorized by Section 405-280 of the Department of Central Management Services Law [20 ILCS 405/405-280]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking clarifies the requirements relating to proper use of State vehicles.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days of the date of this publication to:

Stephen W. Seiple
720 Stratton Office Building
Springfield IL 62706
217/782-9669
- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: January, 2000

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The full text of the Proposed Amendment begins on the next page.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND
PROPERTY MANAGEMENT

SUBTITLE D: PROPERTY MANAGEMENT

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Gasoline Purchase
Charges
Payment of Charges
Credits
Cost Information (Repealed)
Designation of Vehicle Coordinator
DCMS Annual Statement
Required Forms and Information
Agency Signature Authority
Rate Schedule

AUTHORITY: Implementing Sections 405-280, 405-285, and 405-215 of the Department of Central Management Services Law [20 ILCS 405/405-280, 405-285, and 405-215] and Sections 1 and 2 of the State Vehicle Identification Act [30 ILCS 610/1 and 2] and authorized by Section 405-280 of the Department of Central Management Services Law [20 ILCS 405/405-280].

SOURCE: Adopted at 4 Ill. Reg. 28, p. 173, effective July 1, 1980; amended at 4 Ill. Reg. 30, p. 1225, effective July 1, 1980, by the Department of Administrative Services; transferred to the Department of Central Management Services by Executive Order 82-1, effective July 1, 1982; amended at 7 Ill. Reg. 2483, effective March 1, 1983; codified at 8 Ill. Reg. 8180; amended at 9 Ill. Reg. 13720, effective August 21, 1985; amended at 13 Ill. Reg. 13829, effective August 22, 1989; amended at 15 Ill. Reg. 7553, effective May 7, 1991; amended at 19 Ill. Reg. 14774, effective October 5, 1995; amended at 25 Ill. Reg. _____, effective _____.

SUBPART C: USE OF VEHICLES

Section 5040.350 Authorized Use Off-Duty-Usage-and-Personal-Use

- a) State-owned vehicles shall only be used for public purposes and in the best interests of the State. When performing official duties on behalf of the State, authorized uses include:
- 1) travel between places of State business, places of temporary lodging, places to obtain meals, and/or other locations necessary to perform official duties;
 - 2) travel to/from places to obtain emergency medical assistance or supplies;
 - 3) transport of:

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- A) other State officers or employees who are on official State business;
- B) consultants or contractors working on behalf of the State;
- C) commercial firm representatives working with the State;
- D) wards of the State;
- E) residents of State facilities or institutions; and
- F) others as authorized in writing by an agency head;
- 4) transport of materials, equipment, supplies, tools, parcels, luggage, or other items necessary or required to perform official duties;
- 5) operation of a State vehicle by a State contractor when required to meet the needs of a State contract and when authorized in writing by an agency head;
- 6) operation of a State vehicle when on a travel-related assignment (including, but not limited to, pick-up and return of a vehicle and necessary commuting);
- 7) commuting in an assigned vehicle when one of the conditions set forth in Section 5040.340 of this Part is met and the employee has complied with:
- A) the certification requirements of Section 7-601 of the Illinois Vehicle Code [625 ILCS 5/7-601]; and
- B) all applicable reporting requirements of the Office of the Comptroller;
- 8) operation of a specially equipped vehicle where a State official or employee is required to have constant access to the equipment in the vehicle (for purposes of this Section, "specially equipped vehicle" means a vehicle equipped with communications equipment regularly used to transmit over a network of the Emergency Management Agency); and
- 9) any other use when for public purposes and in the best interests of the State, and authorized in writing by an agency head.
- b) Unauthorized use of a State-owned vehicle includes, but is not limited to:
- 1) transportation for shopping, meals, entertainment, recreation or vacation purposes unrelated to the performance of official State business;
- 2) transport of any person for any purpose unrelated to official State business;
- 3) operation of a vehicle beyond the vehicle's rated capability;
- 4) transport of materials, equipment, supplies, tools, parcels, luggage, or other items unrelated to the performance of official State business;
- 5) transport of hazardous or dangerous materials such as acids, explosives, weapons, ammunition, or highly flammable materials, unless authorized in writing by an agency head or in an emergency;
- 6) transport of items or equipment that may constitute an obstruction of safe driving or hazard to pedestrians or other

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- 7) vehicles; and
- any use in violation of applicable statute, rule, or executive order.
- c) Any employee or official using a State vehicle in a manner contrary to this Section shall be personally responsible for and assume the risk of:
- 1) personal injury to the employee/official and to third parties; and
- 2) damage to the property of the employee/official, the State, and third parties.
- d) Agencies are responsible for establishing written policies and procedures to ensure all vehicle use is in accordance with this Section. In the event of a violation of this Section, the user's agency head:
- 1) is responsible for instituting corrective action, which may include discipline up to and including discharge; and
- 2) shall require and verify the user has paid the State for each mile or fractional mile of unauthorized use. Payment to the State shall be equal to the amount reimbursed to State employees for the use of personal vehicles (see 80 Ill. Adm. Code 3000.300(F)(2)).
- e) Agencies may establish policies consistent with or more restrictive than the rules set forth in this Section.
- a) Any State-owned vehicle not assigned to a specific employee shall not be used for the transportation of the State employee between that employee's office and the employee's home, unless one or more of the following conditions are met:
- 1) When the employee using the vehicle has a travel assignment that begins or ends at the employee's home;
- 2) When the employee using the vehicle must begin or end a travel assignment outside normal State working hours;
- 3) When it is in the best interest of the State and approved by the employee's agency head;
- b) State-owned vehicles assigned or non-assigned shall not be used for transportation to restaurants, shopping centers, etc., unless the transportation is related to the performance of State duties, or otherwise incident to the employee's duties;
- c) Any employee who utilizes a State vehicle for personal use:
- 1) shall pay to the State for each mile or fractional mile of personal use the amount which the State reimburses employees for official travel (See 80 Ill. Adm. Code 3000.300(F)(2));
- 2) does so solely at the risk of the employee and any personal injury or property damage to the employee, to state property or to the person or property of others is the personal responsibility of the employee;
- 3) may be subject to disciplinary action up to and including discharge; Factors which would mitigate against discipline include:

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- A) ~~the personal use was unavoidable due to an emergency~~
 B) ~~the personal use was of a brief duration and incident to the employee's duties~~
 C) ~~the personal use was for a purpose that could not have been accomplished outside normal business hours~~
 D) ~~the personal use did not result in the employee's departure from the route that would otherwise have been taken to perform business duties~~

(Source: Amended at 25 Ill. Reg. _____, effective _____)

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Measurement Procedures for the Enforcement of 35 Ill. Adm. Code 900 & 901
- 2) Code Citation: 35 Ill. Adm. Code 951
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
951.100	Repeal
951.101	Repeal
951.102	Repeal
951.103	Repeal
951.104	Repeal
951.105	Repeal
APPENDIX A	Repeal
APPENDIX B	Repeal
APPENDIX C	Repeal
APPENDIX D	Repeal
APPENDIX E	Repeal
APPENDIX F	Repeal

- 4) Statutory Authority: Implementing and authorized by Sections 25 and 27 of the Environmental Protection Act [415 ILCS 5/25 and 5/27] and 35 Ill. Adm. Code 900.103.

- 5) A Complete Description of the Subjects and Issues Involved: 35 Ill. Adm. Code Part 951 contains regulations establishing personnel qualifications, instrumentation and measurement techniques for conducting sound pressure level measurements. These regulations were adopted pursuant to 35 Ill. Adm. Code 900.103 and based upon the standards specified therein. The standards specified in Section 900.103 are now out of date and obsolete. Furthermore, the Board held in R83-7, In re General Motors Corp. Proposed Amendments to 35 Ill. Adm. Code 900.103 and 901.104, Adopted Rule and Final Order (Jan. 22, 1987), that the regulations in Part 951 deviated unacceptably from the standards specified in Section 900.103. As a result, Part 951 is no longer used.

In connection with this action, the Agency plans to propose amendments to 35 Ill. Adm. Code 900 to update the standards referenced in Section 900.103. The Agency will then develop new sound measurement criteria based upon the updated standards.

- 6) Will this proposed repealer replace an emergency repealer currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed repealer contain incorporation by reference? No
- 9) Are there any other proposed repealers pending on this part? No

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- 10) Statement of Statewide Policy Objectives: This proposed repealer does not create or enlarge a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

- 11) Time, Place and Manner in which Interested Persons may Comment on this Proposed Rulemaking: Persons who wish to submit comments on this proposed repealer may submit them in writing by no later than 45 days after publication of this notice to:

M. Kyle Rominger, Assistant Counsel
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: The proposed repealer will not affect small businesses, small municipalities and not for profit corporations because Part 951 is no longer used.

B) Reporting, bookkeeping or other procedures required for compliance: No new reporting, bookkeeping or other procedures will be required as the result of the proposed repealer.

C) Types of professional skills necessary for compliance: No professional skills are required for compliance with the proposed repealer.

- 13) Regulatory Agenda on which this rulemaking was summarized: July 2000

The full text of the Proposed Repealer begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE H: NOISE
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 951

MEASUREMENT PROCEDURES FOR THE ENFORCEMENT
OF 35 ILL. ADM. CODE 900 & 901 (REPEALED)

Section	General
951.100	Personnel Qualifications
951.101	Instrumentation
951.102	Definitions
951.103	Measurement Techniques for 35 Ill. Adm. Code 900
951.104	Measurement Techniques for 35 Ill. Adm. Code 901
951.105	Angle of Incidence
APPENDIX A	Examples of Possible Survey Site Locations
APPENDIX B	Steady and Fluctuating Sound
APPENDIX C	Fluctuating and Intermittent Sound
APPENDIX D	Impulsive and Quasi-Steady Sound
APPENDIX E	Old Rule Numbers Referenced
APPENDIX F	

AUTHORITY: Implementing and authorized by Sections 25 and 27 of the Environmental Protection Act (Ill. Rev. Stat. 1981, ch. 111 1/2, pars. 1025 and 1027) and 35 Ill. Adm. Code 900.103.

SOURCE: Adopted at 4 Ill. Reg. 6, p. 179, effective February 1, 1980; codified at 8 Ill. Reg. 18109; repealed at 25 Ill. Reg. _____, effective _____.

Section 951.100 General

This report, pursuant to 35 Ill. Adm. Code 900.103(a) and (b), (old Rules 103(a) and 103(b), Chapter 8, of the Noise Pollution Control Regulations) establishes the qualifications necessary for the Illinois Environmental Protection Agency (Agency) personnel to conduct sound pressure level measurements, the definitions necessary to supplement this report, the instrumentation to be used by Agency personnel conducting sound pressure level measurements and the specific sound pressure level measurement techniques to be employed by Agency personnel conducting sound pressure level measurements. Such personnel qualifications, instrumentation and measurement techniques as more specifically set forth herein below, shall apply to Agency personnel in determining whether a noise source is in compliance with 35 Ill. Adm. Code 900 and 901, but do not establish limits on sound.

Section 951.101 Personnel Qualifications

Agency personnel conducting sound measurements shall have been trained and

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experienced in the current techniques and principles of sound measurement and in the selection and operation of sound measuring instrumentation.

Section 951.102 Instrumentation

- a) A sound level meter used alone or used in conjunction with an octave band or one-third octave band filter set shall conform with the following standards or subsequent revisions:
 - 1) American National Standards Institute (ANSI) Section 1.4 - 1971 Specification for Sound Level Meters, Type 1 Precision Sound Level Meter.
 - 2) American National Standards Institute (ANSI) Section 1.11 - 1966 Specifications for Octave Band Filter Sets, Class II; One-Half Octave Band Filter Sets, Class III; and One-Third Octave Band Filter Sets, Class III.
 - 3) American National Standards Institute (ANSI) Section 1.6 - 1967 Preferred Frequencies and Band Numbers for Acoustical Measurements.
 - 4) American National Standards Institute (ANSI) Section 1.8 - 1969 Preferred Reference Quantities for Acoustical Levels.
- b) If a magnetic tape recorder, graphic level recorder or other indicating device is used, the system shall meet the requirements of the Society of Automotive Engineers (SAE) Recommended Practice J184a Qualifying a Sound Data Acquisition System.
- c) The laboratory calibration of instrumentation used for acoustic measurement shall be traceable to the National Bureau of Standards, and shall be performed no less than once every 12 months.
- d) An anemometer and compass or other suitable devices shall be used to measure wind speed and direction in accordance with the manufacturer's recommended procedures.
- e) A thermometer, suitable for measurement of ambient temperature, shall be used in accordance with the manufacturer's recommended procedures.
- f) A hygrometer, suitable for the measurement of relative humidity, shall be used in accordance with the manufacturer's recommended procedures.
- g) A barometer, suitable for the measurement of barometric pressure, shall be used in accordance with the manufacturer's recommended procedures.
- h) For outdoor measurements a suitable windscreen shall be attached to the microphone.

Section 951.103 Definitions

- "Angle of incidence": the orientation of the microphone relative to the sound source. See Appendix A.
- "Ambient": the all-encompassing sound associated with a given environment without the noise source of interest.
- "Discrete tone": a sound wave whose instantaneous sound pressure varies essentially as a simple sinusoidal function of time.

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(AGENCY NOTE: A discrete tone differs by definition from a prominent discrete tone.)

"Fluctuating sound": a class of nonsteady sound whose sound pressure level varies over a range greater than 6 decibels (dB) with the "slow" meter characteristic, and where the meter indication does not equal the ambient level more than once during the period of observation.

"Impulsive sound": sound characterized by brief excursions of sound pressure (acoustical impulses) above the ambient whose duration is less than one second.

(AGENCY NOTE: Examples of impulsive sound sources are a drop forge hammer and explosive blasting.)

"Intermittent sound": a class of nonsteady sound where the meter indicates a sound pressure level equal to the ambient level two or more times during the period of observation. The period of time during which the level of the sound remains at a value different from that of the ambient is of the order of one second or more.

"Noise floor": the electrical noise (in decibels) of the sound measurement system. When the noise floor is determined by placing a calibrator over the microphone of the sound measurement system, the noise floor may include acoustic noise due to leakage around the calibrator.

"Nonsteady sound": a sound whose sound pressure level shifts significantly during the period of observation. Meter variations are greater than plus or minus 3 dB using the "slow" meter characteristic. "Period of observation": the time interval during which acoustical data are obtained. The period of observation is determined by the characteristics of the noise being measured and should be at least ten times as long as the response time of the instrumentation. The greater the variation in indicated sound level, the longer must be the observation time for a given expected precision of the measurement.

"Prominent discrete tone": sound, having a one-third octave band sound pressure level which, when measured in a one-third octave band at the preferred frequencies, exceeds the arithmetic average of the sound pressure levels of the two adjacent one-third octave bands on either side of such one-third octave band by:

5 dB for such one-third octave band with a center frequency from 500 Hertz to 10,000 Hertz, inclusive. Provided: such one-third octave band sound pressure level exceeds the sound pressure level of each adjacent one-third octave band, or;

8 dB for such one-third octave band with a center frequency from 160 Hertz to 400 Hertz, inclusive. Provided: such one-third octave band sound pressure level exceeds the sound pressure level of each adjacent one-third octave band, or;

15 dB for such one-third octave band with a center frequency from 25 Hertz to 125 Hertz, inclusive. Provided: such one-third octave band sound pressure level exceeds the sound pressure level of each adjacent one-third octave band.

"Property-line-noise-source": any equipment or facility, or

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combination thereof, which operates within any land used as specified by 35 Ill. Adm. Code 901.101 of the Noise Regulations. Such equipment or facility, or combination thereof, must be capable of emitting sound beyond the property line of the land on which operated.

(AGENCY NOTE: The property-line-noise-source is the equipment or facility or combination thereof that is emitting the sound to be measured. The surface of the property-line-noise-source is not necessarily on the property line unless they are contiguous.)

"Quasi-steady sound": a train of two or more acoustical impulses.

(AGENCY NOTE: Examples of quasi-steady sound are riveting and a pneumatic hammer.)

"Reflective surface": any building, hillside, or similar object (other than the flat ground surface) that reflects sufficient sound to affect the sound pressure level readings obtained from a noise source. Not included as reflective surfaces are small objects such as trees, posts, chain-link fences, fire hydrants, vegetation such as bushes and shrubs, or any similar object.

"Sound level": in decibels, a weighted sound pressure level determined by the use of metering characteristics and frequency weightings specified in ANSI, Section 1.4-1971 "Specification for Sound Level Meters."

(AGENCY NOTE: The sound level may be obtained by the use of a metering characteristic and the weightings A, B, C (or other)).

"Sound pressure level": in decibels, 20 times the logarithm to the base 10 of the ratio of the magnitude of a particular sound pressure to the standard reference pressure. The standard reference pressure is 20 micro-newtons per square meter.

"Steady sound": a sound whose sound pressure level remains essentially constant (that is, meter fluctuations are negligibly small) during the period of observation. Meter variations are less than or equal to plus or minus 3 dB using the "slow" meter characteristic.

Section 951.104 Measurement Techniques for 35 Ill. Adm. Code 900

If sound pressure level measurements are obtained by Agency personnel to determine whether a noise source is in compliance with 35 Ill. Adm. Code 900.102 of the Noise Regulations, the following measurement techniques shall be employed:

a) Instrumentation Set Up

1) Measurement instruments shall be set up in an area where the emitted sound may unreasonably interfere with the enjoyment of life or with any lawful business or activity. Other measurement locations may be used for investigatory purposes such as, but not limited to, the following:

- A) Determining the extent of noise pollution caused by the source of sound.
- B) Determining the ambient, and

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C) Analyzing those acoustical parameters that describe the sound source,

2) Instrumentation set up may include, but is not limited to, any method given in a subsequent Section herein.

b) Data Acquisition and Operation

1) Before taking sound pressure level measurements, measure and record (near the measurement site):

- A) Wind speed and direction,
- B) Ambient temperature,
- C) Relative humidity, and
- D) Barometric pressure.

2) Turn the measuring instrument on and allow the instrument to stabilize. Monitor and record the battery condition of the calibrator and all measuring instruments.

3) Turn the calibrator on at its appropriate frequency. Allow the calibrator to stabilize and calibrate the measuring system according to the manufacturer's specifications. After the measuring system has been calibrated, remove the calibrator.

4) Measure the sound pressure level data according to the manufacturer's recommended procedures. Other sound pressure levels may be used for investigatory purposes such as, but not limited to, the following:

- A) Determining the extent of noise pollution caused by the source of sound,
- B) Determining the ambient, and
- C) Analyzing those acoustical parameters that describe the sound source.

5) While measurements are being taken, visual and aural surveillance of extraneous sound sources and varying wind conditions should be made to insure that the conditions of measurement are accurately known. Record any variations in these parameters that may affect data.

6) If necessary to determine the extent of noise pollution caused by the source of sound, determine the ambient at the measurement site by means of measurement or analysis.

7) After recording sound pressure level measurements, attach the calibrator to the microphone. Turn the calibrator on at its appropriate frequency. After allowing the calibrator to stabilize, monitor and record the measuring system response. When the measuring system response varies by more than plus or minus 0.5 dB from the most recent field calibration, the sound pressure level measurements obtained since such most recent field calibration shall not be used for enforcement purposes.

8) Before removing the calibrator from the microphone, turn the calibrator off. If the ambient has not been determined by means of measurement, determine the noise floor of the measuring system. If the noise floor is within 10 dB of the measured sound pressure level data, such noise floor measurements shall be

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recorded.

- 9) At the end of the sound survey, monitor and record the battery condition of the calibrator and all measuring instruments. Near the measurement site, measure and record:

- A) Windspeed and direction,
- B) Ambient temperature,
- C) Relative humidity, and
- D) Barometric pressure.

- 10) If necessary for investigatory purposes, record:

- A) The physical and topographical description of the ground surface within the vicinity of the measurement site,
- B) Survey site location,
- C) A description of the sound source,
- D) A diagram of the area,
- E) Location of reflective surfaces near the microphone, and
- F) The approximate location of the sound source relative to the microphone position.

- 11) Data acquisition and operation may include, but is not limited to, any method given in a subsequent Section herein.

(AGENCY NOTE: 35 Ill. Adm. Code 900.102 prohibits noise that unreasonably interferes with the enjoyment of life or with any lawful business or activity, and 35 Ill. Adm. Code 900.102 is not dependent upon utilization of specific numerical limits expressed in terms of decibels. Thus, applicable law does not necessarily require that sound pressure level measurements be obtained to determine whether a noise source is in compliance with 35 Ill. Adm. Code 900.102. In the event sound pressure level measurements are obtained, such measurements shall be in accordance with this report. However, the contents of this report shall not be interpreted so as to require sound pressure level measurements to determine whether a noise source is in compliance with 35 Ill. Adm. Code 900.102.)

Section 951.105 Measurement Techniques for 35 Ill. Adm. Code 901

- a) Site Selection

- 1) Measurements may be taken at one or more microphone positions within the appropriate receiving land. Measurement instruments shall be set up outdoors within the boundaries of the receiving land for the purpose of determining whether a noise source is in compliance.
- 2) Measurement instruments shall be set up not less than 25 feet (7.6 meters (m)) from the property-line-noise-source. The 25-foot (7.6 m) set back requirement is from the noise source and not the property line unless the noise source is contiguous to the property line. See Appendix B.
- 3) Other measurement locations may be used for investigatory

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purposes such as, but not limit to, the following:

- A) Determining the extent of noise pollution caused by the source of sound,
- B) Determining the ambient, and
- C) Analyzing those acoustical parameters that describe the sound source.
- 4) For measurements of sound sources with no audible discrete tones, microphones should not be set up less than 25 feet (7.6 m) from any reflective surface which may affect data. If measurements must be taken within 25 feet (7.6 m), the effect, if any, of the reflective surface on the measured data must be determined.
- 5) For measurements of sound sources with audible discrete tones microphones should not be set up less than 50 feet (15.2 m) from any reflective surface which may affect data. If measurements must be taken within 50 feet (15.2 m), the effect, if any, of the reflective surface on the measured data must be determined.
- 6) Objects with small dimensions (trees, posts, bushes, etc.) should not be within 5 feet (1.5 m) of the microphone position. If measurements must be taken within 5 feet (1.5 m) of such objects, the effect, if any, on the measured data must be determined.

- b) Instrumentation Set Up

After a measurement site has been chosen, a tripod shall be set over the site. The tripod shall be extended to a height between 3 feet 8 inches (1.12 m) and 4 feet 10 inches (1.47 m) above ground. A microphone shall be attached to the appropriate end of a 5-foot (1.5 m) or longer cable and shall be affixed to the top of the tripod. The other end of the cable shall be connected to the measuring instrument. The measuring instrument should be separated from the microphone so as to minimize any influence on the measurements. The cable movement must be minimized during the measurement period.

- c) Date Acquisition and Operation

- 1) Before taking sound pressure level measurements, measure and record (near the measurement site):

- A) Wind speed and direction,
- B) Ambient temperature,
- C) Relative humidity, and
- D) Barometric pressure.

- 2) Turn the measuring instrument on and allow the instrument to stabilize. Monitor and record the battery condition of the calibrator and all measuring instruments.

- 3) Turn the calibrator on at its appropriate frequency. Allow the calibrator to stabilize and calibrate the measuring system according to the manufacturer's specifications. After the measuring system has been calibrated, remove the calibrator and attach a suitable windscreen to the microphone.

- 4) Adjust the microphone to the angle of incidence that will yield the flattest frequency response in accordance with the manufacturer's specifications.

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- 5) Measure the sound pressure level data within the limitations of subsection (d) and according to the manufacturer's recommended procedures. Other sound pressure levels may be used for investigatory purposes such as, but not limited to, the following:

- A) Determining the extent of noise pollution caused by the source of sound,
- B) Determining the ambient, and
- C) Analyzing those acoustical parameters that describe the sound source.

(AGENCY NOTE: If a conflict should arise, the limitations of subsection (d) supercede the manufacturer's specifications.)

- 6) While sound measurements are being taken, the operator must be separated from the microphone so as to minimize any influence on the measurements.
- 7) While measurements are being taken, visual and aural surveillance of extraneous sound sources and varying wind conditions should be made to insure that the conditions of measurement are accurately known. Record any variations in these parameters that may affect data.
- 8) To minimize wind effects on the microphone, sound measurements shall not be taken when the wind velocity is greater than 12 miles per hour (5.4 m/second) at the microphone position.
- 9) For the purposes of data correction, determine the ambient sound at the measurement site by means of measurement or analysis.
- 10) After taking sound pressure level measurements, remove the windscreen and attach the calibrator to the microphone. Turn the calibrator on at its appropriate frequency. After allowing the calibrator to stabilize, monitor and record the measuring system response. When the measuring system response varies by more than plus or minus 0.5 dB from the most recent field calibration, the sound pressure level measurements obtained since such most recent field calibration shall not be used for enforcement purposes.
- 11) Before removing the calibrator from the microphone, turn the calibrator off. If the ambient has not been determined by means of measurement, determine the noise floor of the measuring system. If the noise floor is within 10 dB of the measured sound pressure level data, such noise floor measurements shall be recorded.
- 12) At the end of the sound survey, monitor and record the battery condition of the calibrator and all measuring instruments. Near the measurement site, measure and record:
 - A) Windspeed and direction,
 - B) Ambient temperature,
 - C) Relative humidity, and
 - D) Barometric pressure.
- 13) Record the physical and topographical description of the ground

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surface within the vicinity of the measurement site, survey site location, a description of the sound source, a diagram of the area, the location of reflective surfaces near the microphone, and the approximate location of the noise source relative to the microphone position.

- 14) Laboratory analyses may be performed on magnetic tape recorded field data. A description of the laboratory instrumentation and procedures shall be recorded. Analyses used in the laboratory shall be correlated to field measurement techniques.

d) Limiting Procedures for Specific Types of Data Acquisition

- 1) For measurements of non-impulsive sound with audible discrete tones, one-third octave band sound pressure levels shall be obtained in determining whether a noise source is in compliance with 35 Ill. Adm. Code 901.106 of the Noise Regulations.
- 2) For measurements of non-impulsive sound with no audible discrete tones, octave band sound pressure levels shall be obtained in determining whether a noise source is in compliance with 35 Ill. Adm. Code 901.102 and 901.103 of the Noise Regulations.
- 3) Steady sound:
 - A) For measurements of steady sound at one or more octave or one-third octave bands, sound pressure level measurements shall be obtained for such octave or one-third octave bands. The average of the maximum and minimum sound pressure levels shall be obtained for each octave or one-third octave band center frequency during the period of observation (See Appendix C, Figure 1).
 - B) For measurements of steady sound that varies between two or more levels when observed using the "fast" or "slow" meter characteristic, the average sound pressure level for the steady level of interest shall be obtained (See Appendix C, Figure 2).
 - C) For steady sound whose duration is five seconds or more the "fast" or "slow" meter characteristic shall be used. For levels that are steady for one to five seconds the "fast" meter characteristic shall be used.
- 4) Fluctuating Sound:
 - A) For measurements of fluctuating sound at one or more octave or one-third octave bands where the fluctuations on the indicating meter are between plus or minus 3 dB ("slow" meter characteristic), obtain the sound pressure level 3 dB below the maximum level. This corresponds to the root mean square (rms) sound pressure level and shall be obtained for such octave or one-third octave bands (See Appendix C, Figure 3). When successive fluctuations are observed to have different maximum levels, obtain the sound pressure level 3 dB below the mean of the maximum levels for several excursions.
 - B) For measurements of fluctuating sound at one or more octave

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or one-third octave bands where the fluctuations on the indicating meter are greater than plus or minus 5 dB, the sound pressure level may deviate from the true rms value by several decibels (See Appendix D, Figure 1). The recorded level shall be obtained by reading the maximum level of the sound level meter 10 or more times during the period of observation. The recorded level shall be obtained from the following equation:

$$L = 10 \log \frac{1}{N} \sum_{i=1}^N 10^{(L_i/10)}$$

where

N = the total number of observations

$L[i]$ = the maximum level at each observation

- C) For measurements of fluctuating sound that varies between two or more levels when observed using the "slow" meter characteristic, the measurement methods specified in subsection (d)(4)(A) or (D)(4)(B), may be used to obtain sound pressure levels for the fluctuating level of interest (See Appendix D, Figure 2).

- 5) Intermittent Sound: For measurements of intermittent sound the methods specified in subsections (d)(1), (d)(2), (d)(3) or (d)(4) shall be used during the time the sound exceeds the ambient level (See Appendix D, Figure 3).

- 6) Impulsive Sound: For measurements of impulsive sound, A-weighting and the "fast" meter characteristic shall be used. The maximum excursion of the indicating meter shall be obtained. Measurements may also be taken using other weightings and meter characteristics for informational purposes (See Appendix E, Figure 1).

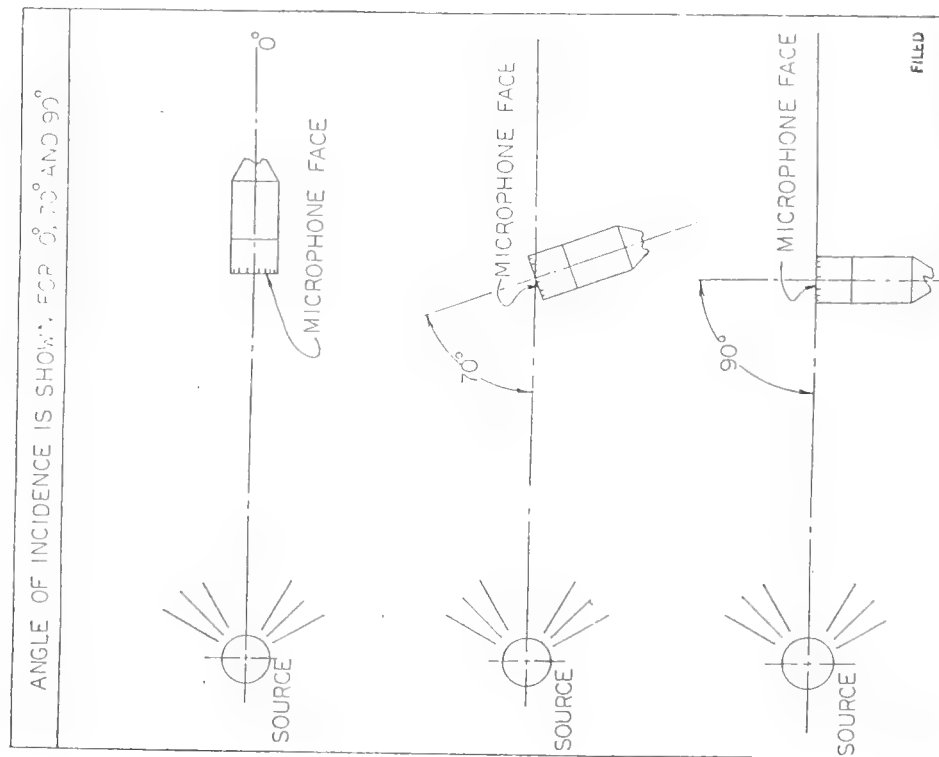
- 7) Quasi-Steady Sound: For measurement of quasi-steady sound, A-weighting and the "fast" meter characteristic shall be used. The maximum excursion of the indicating meter shall be obtained. Measurements may also be taken using other weightings and meter characteristics for informational purposes (See Appendix E, Figure 2).

e) Correction Factors

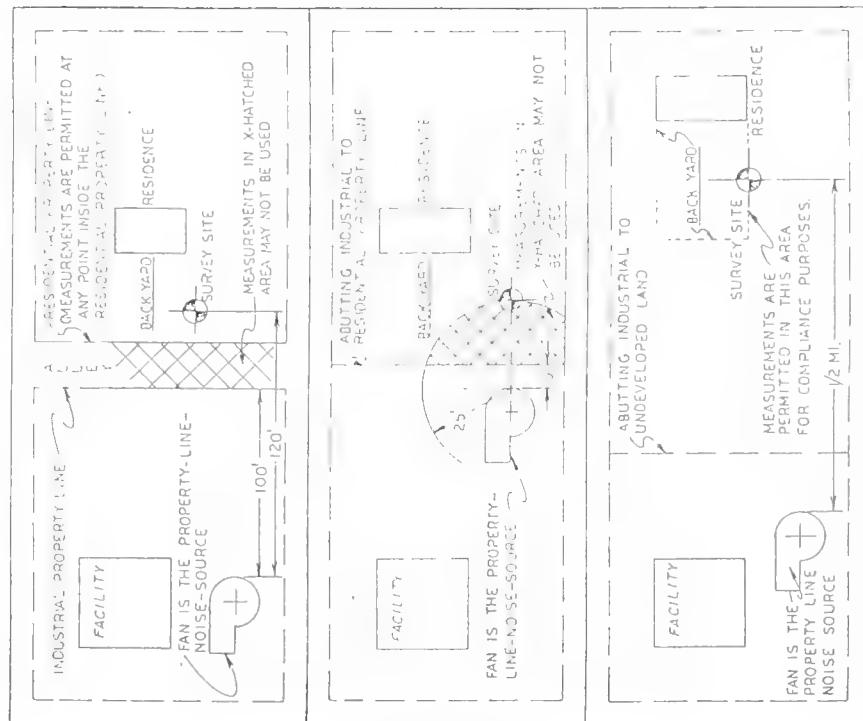
If necessary, correction factors rounded to the nearest 1/2 decibel shall be applied to sound pressure level measurements. The correction factors applicable to the measurement system may include, but are not limited to, corrections for windscreen interference and the sound pressure level difference between consecutive field calibrations. Such calibration correction factors shall only be used to make negative corrections (subtraction from the field data). In no case shall such calibration correction factors be added to the measured sound pressure levels so as to raise the sound pressure level field data. The correction factors applicable to the measurement site may include, but are not limited to, corrections for reflective surfaces

and ambient sound.

951.APPENDIX A ANGLE OF INCIDENCE



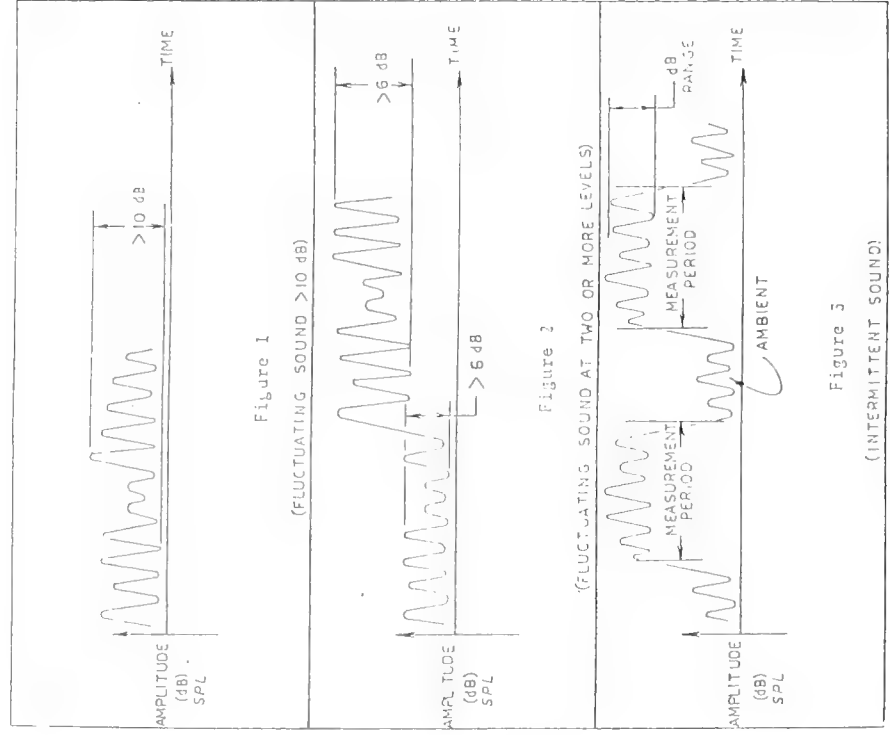
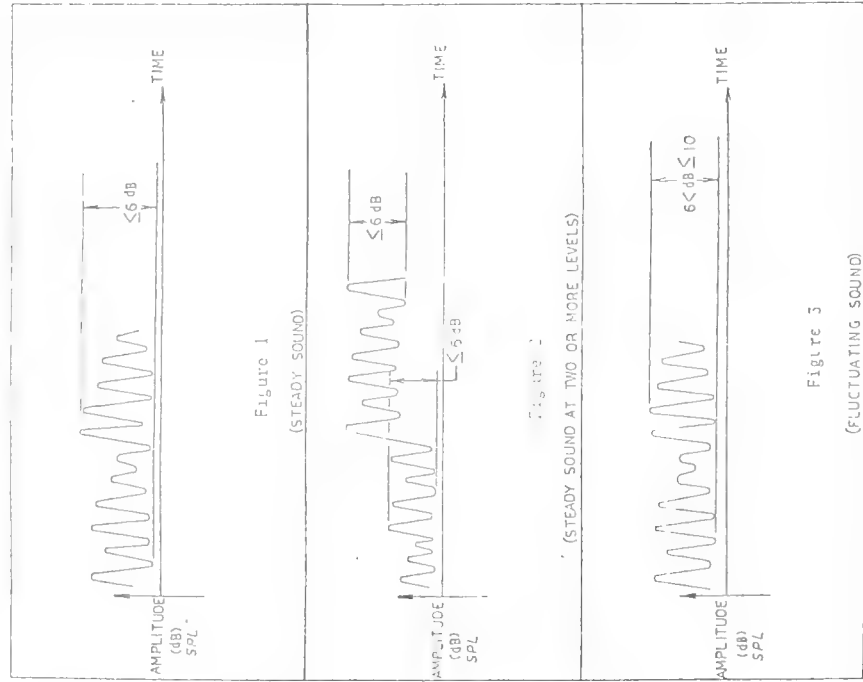
951.APPENDIX B EXAMPLES OF POSSIBLE SURVEY LOCATIONS



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951.APPENDIX C STEADY AND FLUCTUATING SOUND

951.APPENDIX D FLUCTUATING AND INTERMITTENT SOUND



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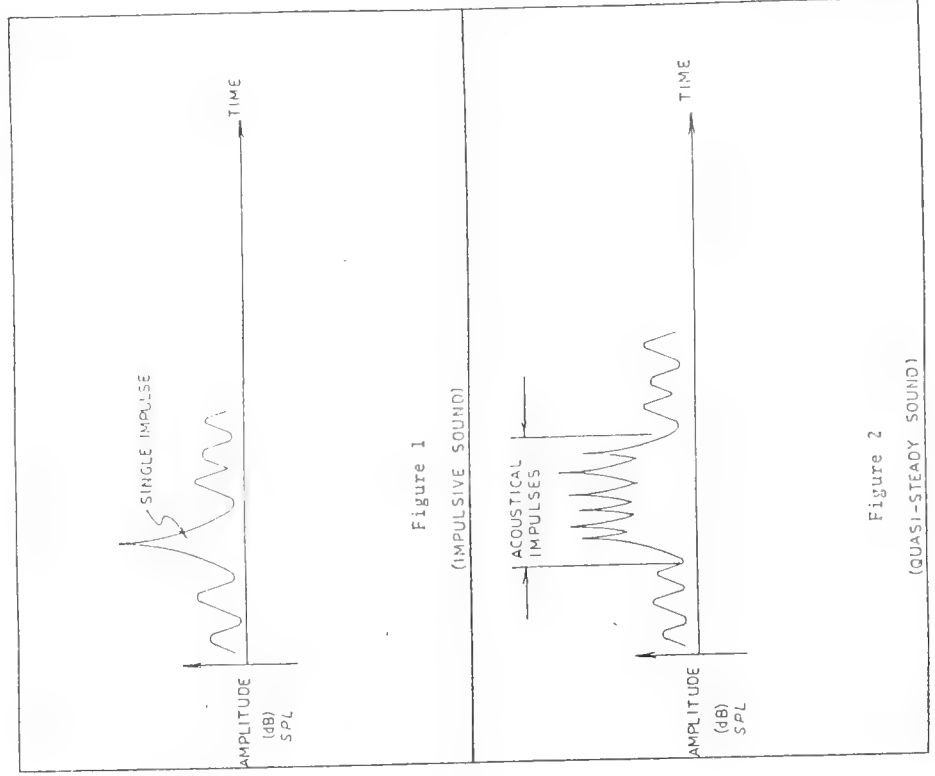
Section 951.APPENDIX F Old Rule Numbers Referenced

The following table is provided to aid in referencing old Agency rule numbers to section numbers pursuant to codification.

Old	35 Ill. Adm. Code Part 951
Part 1.0	Section 951.100
Part 2.0	Section 951.101
Part 3.0	Section 951.102
Part 4.0	Section 951.103
Part 5.0	Section 951.104
Part 6.0	Section 951.105
Figure 1	Appendix A
Figure 2	Appendix B
Figure 3	Appendix C
Figure 4	Appendix D
Figure 5	Appendix E

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931.APPENDIX E IMPULSIVE AND QUASI-STEADY SOUND



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- 1) Heading of the Part: Measurement Procedures for the Enforcement of 35 Ill. Adm. Code 902

- 2) Code Citation: 35 Ill. Adm. Code 952

3) Section Numbers: Proposed Action:

952.100	Repeal
952.110	Repeal
952.120	Repeal
952.121	Repeal
952.122	Repeal
952.123	Repeal
952.124	Repeal
952.125	Repeal
952.130	Repeal
952.131	Repeal
952.132	Repeal
952.133	Repeal
952.134	Repeal
952.140	Repeal
952.150	Repeal
APPENDIX A	Repeal
APPENDIX B	Repeal
APPENDIX C	Repeal
APPENDIX D	Repeal
APPENDIX E	Repeal
APPENDIX F	Repeal
APPENDIX G	Repeal
APPENDIX H	Repeal
APPENDIX I	Repeal
APPENDIX J	Repeal

- 4) Statutory Authority: Implementing and authorized by Sections 25 and 27 of the Environmental Protection Act (415 ILCS 5/25 and 5/27) and 35 Ill. Adm. Code 900.103.

- 5) A Complete Description of the Subjects and Issues Involved: Part 952 contains procedures for the inspection, surveillance and measurement of motor vehicles and motor vehicle equipment to determine whether they conform to the noise standards specified in 35 Ill. Adm. Code 902. The procedures in Part 952 were adopted pursuant to 35 Ill. Adm. Code 900.103 and based upon the standards specified therein. The standards specified in Section 900.103 are now out of date and obsolete. As a result, the procedures in Part 952 are no longer used.

In connection with this action, the Agency plans to propose amendments to 35 Ill. Adm. Code 900 to update the standards referenced in Section 900.103. The Agency will then develop new procedures based upon the

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updated standards.

- 6) Will this proposed repealer replace an emergency repealer currently in effect? No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this proposed repealer contain incorporation by reference? No

- 9) Are there any other proposed repealers pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This proposed repealer does not create or enlarge a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

- 11) Time, Place and Manner in which Interested Persons may Comment on this Proposed Rulemaking: Persons who wish to submit comments on this proposed repealer may submit them in writing by no later than 45 days after publication of this notice to:

M. Kyle Rominger, Assistant Counsel
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: The proposed repealer will not affect small businesses, small municipalities and not for profit corporations because Part 952 is no longer used.

B) Reporting, bookkeeping or other procedures required for compliance: No new reporting, bookkeeping or other procedures will be required as the result of the proposed repealer.

C) Types of professional skills necessary for compliance: No professional skills are required for compliance with the proposed repealer.

- 13) Regulatory Agenda on which this rulemaking was summarized: July 2000

The full text of the Proposed Repealer begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE H: NOISE
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY
PART 952
MEASUREMENT PROCEDURES FOR THE ENFORCEMENT
OF 35 ILL. ADM. CODE 902 (REPEALED)

SUBPART A: GENERAL PROVISIONS

Section
952.100 General Provisions

SUBPART B: INSTRUMENTATION

Section
952.110 Instrumentation

SUBPART C: MEASUREMENT OF NOISE
EMISSIONS: HIGHWAY OPERATIONS

Section
952.120 Scope of this Subpart
952.121 Standard Site Characteristics
952.122 Restricted Site Characteristics
952.123 Ambient Conditions
952.124 Location and Operation of Sound Level Measurement System
952.125 Measurement Procedure

SUBPART D: MEASUREMENT OF NOISE
EMISSIONS: STATIONARY TEST

Section
952.130 Scope of this Subpart
952.131 Site Characteristics
952.132 Ambient Conditions
952.133 Location and Operation of Sound Level Measurement System
952.134 Measurement Procedure

SUBPART E: MICROPHONE DISTANCE
CORRECTION FACTORS

Section
952.140 Microphone Distance Correction Factors

SUBPART F: EXHAUST SYSTEMS AND TIRES

Section

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952.150 Exhaust Systems and Tires

APPENDIX A Standard Test Site: Highway Operations
APPENDIX B Restricted Measuring Site: Highway Operations
APPENDIX C Restricted Measuring Site "D" and "L" Determination for Reflective Surface Correction
APPENDIX D Example of D and L Determination
APPENDIX E Nomograph to Determine Corrections for Reflective Surfaces
APPENDIX F Standard Test Site: Stationary Test
APPENDIX G Example of Standard Test Site: Highway Operations (60 feet (18.3 m) Distance Between Microphone Location and Target Points)

APPENDIX H Example of Standard Test Site: Stationary Test (35 feet (10.7 m) Distance Between Microphone Location and Target Points)
APPENDIX I Passenger Car Microphone Positions
APPENDIX J Old Rule Numbers Referenced

AUTHORITY: Implementing and authorized by Sections 25 and 27 of the Environmental Protection Act (Ill. Rev. Stat. 1981, ch. 111 1/2, pars. 1025 and 1027) and 35 Ill. Adm. Code 900.1103.

SOURCE: Adopted at 4 Ill. Reg. 19, p. 207, effective May 1, 1980; codified at 8 Ill. Reg. 18111; repealed at 25 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 952.100 General Provisions

a) Introduction

This report describes procedures for inspection, surveillance and measurement of motor vehicles and motor vehicle equipment to determine whether those motor vehicles and motor equipment conform to the standards specified in 35 Ill. Adm. code 902 (old Part 3 of Chapter 8 of the Illinois Pollution Control Board Rules and Regulations).

b) Definitions

"Ground cover": any of various low, dense-growing plants, such as ivy, myrtle, low weeds or brush.

"Hard test site": any test site having the ground surface covered with concrete, asphalt, packed dirt, gravel or similar reflective material for more than 1/2 the distance between the microphone target point and the microphone location point.

"Soft test site": any test site having the ground surface covered with grass, other ground cover or similar absorptive material for 1/2 or more of the distance between the microphone target point and the microphone location point.

"Traffic railing": any longitudinal highway traffic barrier system installed along the side or median of a highway. For the

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purpose of this report, a traffic railing must have at least 35 percent of its vertical height, from the ground surface to the top of the railing, open to free space in order to qualify as an acceptable object within a noise measurement test site. Further, for the purposes of this report, posts or other discrete supports shall be ignored when ascertaining open free space.

"Relatively flat": when used to describe a noise measurement site means a site which does not contain significant concave curvatures of slope reversals that may result in the focusing of sound waves toward the microphone location point.

c) Measurement Tolerances

1) Measurement tolerances will be allowed to take into account the effects of the following factors:

- A) The consensus standard practice of reporting field sound level measurements to the nearest whole decibel (dB).
 - B) Variations resulting from commercial instrument tolerances.
 - C) Variations resulting from the topography of the noise measurement site.
 - D) Variations resulting from atmospheric conditions such as wind, temperature and atmospheric pressure.
 - E) Variations resulting from reflected sound from small objects allowed within the test site.
 - F) The interpretation of the effects of the above cited factors by enforcement personnel.
- 2) Measurement tolerances shall not exceed:
- A) 1 dB for Type 1 sound level meters;
 - B) 2 dB for Type 2 and Type S sound level meters.
- 3) Measurement tolerances are to be added to the applicable sound level limit.

SUBPART B: INSTRUMENTATION

Section 952.110 Instrumentation

- a) Scope of this Subpart
This Subpart specifies criteria for sound level measurement systems which are used to make the sound level measurements specified in Subparts C and D of these measurement procedures.
- b) Type of Measurement Systems Which May Be Used
The sound level measurement system must meet or exceed the requirements of American National Standards Institute Specification for Sound Level Meters (ANSI pars.1.4-1971), approved April 27, 1971, issued by the American National Standards Institute throughout the applicable frequency range for either:
 - 1) A Type 1 sound level meter;
 - 2) A Type 2 sound level meter; or
 - 3) A Type S sound level meter which has:
 - A) A-weighting frequency response;

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- B) Fast dynamic characteristics of its indicating instrument; and
 - C) A relative response level tolerance consistent with those of either a Type 1 or Type 2 sound level meter, as specified in Section 2.1 of ANSI pars.1.4-1971.
- c) Calibration of Measurement Systems

- 1) A) The sound level measurement system must be calibrated and appropriately adjusted at one or more frequencies in the range from 250 to 1,000 Hertz (Hz) at the beginning of each series of measurements and at intervals of 5-15 minutes thereafter, until it has been determined that the sound level measurement system has not significantly drifted from its calibrated level. Once this fact has been established, calibrations may be made at intervals once every hour. A significant drift shall be considered to have occurred if a 0.3 dB or more excursion is noted from the system's predetermined reference calibration level. In the case of systems using displays with whole decibel increments, the operator may visually judge when the 0.3 dB drift has been met or exceeded.
- B) The sound level measurement system must be checked once every twelve months by its manufacturer, a representative of its manufacturer, or a person of equivalent special competence to verify that its accuracy meets the manufacturer's design criteria.
- 2) An acoustical calibrator of the microphone coupler type designed for the sound level measurement system in use shall be used to calibrate the sound level measurement system in accordance with subsection (c)(1). The calibration must meet or exceed the accuracy requirements specified in Subsection 5.4.1 of the American National Standards Institute Standard Methods for Measurements of Sound Pressure Levels, (ANSI pars.1.13-1971) for field method measurements.

d) Windscreens

A properly installed windscreen, of the type recommended by the manufacturer of the Sound Level Measurement System, shall be used during the time that noise emission measurements are being taken, in order to minimize the wind generated noise on the microphone and to protect the microphone from dust and other airborne matter. The windscreens also reduces damage to the microphone in the event the tripod is upset or the microphone is dropped.

SUBPART C: MEASUREMENT OF NOISE
EMISSIONS: HIGHWAY OPERATIONS

Section 952.120 Scope of this Subpart

- a) This Subpart specifies conditions and procedures for measurement of

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the sound level generated by a motor vehicle engaged in a highway operation for the purpose of ascertaining whether the motor vehicle conforms with 35 Ill. Adm. Code 902.120(b)(1) and (b)(2), 902.121(b)(1) and (b)(2), 902.122(b)(1) and (b)(2) and 902.123(c).

- b) A "Standard site" is a measurement site which conforms with the specifications listed under Chapter 325.33 "Site Characteristics: highway operations" of Subpart C of "Department of Transportation Bureau of Motor Carrier Safety Regulations for Enforcement of Motor Carrier Emission Standards," as described below in Section 952.121. A standard site must be utilized to determine compliance with 35 Ill. Adm. Code 902.121: Standards Applicable to Motor Vehicles with Gross Vehicle Weight (GVW) in Excess of 8,000 Pounds and 35 Ill. Adm. Code 902.123: Exception for and Standards Applicable to Motor Carriers Engaged in Interstate Commerce with Respect to Operations Regulated Pursuant to the Federal Noise Control Act of 1972. A standard site may be utilized to determine compliance with 35 Ill. Adm. Code 902.120: Standards Applicable to All Passenger Cars and to Other Motor Vehicles with GVW of 8,000 Pounds or Less and 35 Ill. Adm. Code 902.122: Standards Applicable to Motorcycles and Motor Driven Cycles.

- c) 1) A "restricted site" is a measurement site at which:

- A) The distance from the microphone to the center of the near lane of travel is greater than 26 feet (7.9 meters (m)) or less than 100 feet (30.2 m), or
 - B) The distance from the microphone target point to large reflecting surfaces is less than the distance between the microphone and the microphone target point, or
 - C) The distance from the microphone to large reflecting surfaces is less than the distance between the microphone and the microphone target point (See Appendix B).
- 2) A restricted site may be utilized to determine compliance with 35 Ill. Adm. Code 902.120: Standards Applicable to All Passenger Cars and to Other Motor Vehicles with GVW of 8,000 Pounds or Less and 35 Ill. Adm. Code 902.122: Standards Applicable to Motorcycles and Motor Driven Cycles.

Section 952.121 Standard Site Characteristics

- a) Measurements shall be made at a test site which is adjacent to, and includes a portion of, a traveled lane of a public highway. A microphone target point shall be established on the centerline of the traveled lane of the highway, and a microphone location point shall be established on the ground surface not less than 35 feet (10.7 m) or more than 83 feet (25.3 m) from the microphone target point and on a line that is perpendicular to the centerline of the traveled lane of the highway and that passes through the microphone target point. Within the test site is a triangular measurement area. A plan view diagram of a standard test site is shown in Appendix A. Measurements

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may be made at a test site having smaller or greater dimensions in accordance with the following:

- 1) If the distance between the microphone location point and the microphone target point is other than 50 feet (15.2 m), the test site must be an open site with a radius from both points which is equal to the distance between the microphone location point and the microphone target point.
- 2) Plan view diagrams of standard test sites are shown in Appendices G and H. Appendix G illustrates a test site which has a 60 foot (18.3 m) distance between the microphone location point and the microphone target point. Appendix H illustrates a test site which has a 35 foot (10.7 m) distance between the microphone location point and the microphone target point.
- b) The measurement site must be an open site, essentially free of large sound reflecting objects. However, the following objects may be within the measurement site, including the triangular measurement area:
 - 1) Small cylindrical objects such as fire hydrants or telephone or utility poles located 3 feet (1 m) or more from the microphone.
 - 2) Rural mailboxes located 3 feet (1 m) or more from the microphone.
 - 3) One or more curbs having a vertical height of 1 foot (.3 m) or less.
- c) The following objects may be within the test site if they are outside of the triangular measurement area of the site:
 - 1) Any vertical surface (such as a billboard), regardless of size, having a lower edge more than 15 feet (4.6 m) higher than the surface of the traveled lane of the highway.
 - 2) Any uniformly smooth sloping surface slanting away from the highway (such as a rise in grade alongside the highway) with a slope that is less than 45 degrees above the horizontal.
 - 3) Any surface slanting away from the highway that is 45 degrees or more and not more than 90 degrees above the horizontal, if all points on the surface are more than 15 feet (4.6 m) above the surface of the traveled lane of the highway.
- d)
 - 1) The surface of the ground within the triangular measurement area must be relatively flat. If the site is determined to be "hard," the correction factor specified below shall be applied to the sound level limits of 35 Ill. Adm. Code 902.121 and 902.123.
 - 2) When measurements are made upon a test site which is "hard," a correction factor of 2 dB (A) shall be added to the sound level limits of 35 Ill. Adm. Code 902.121(b)(1), 902.121(b)(2) and 902.123(c).
- e) The traveled lane of the highway within the test site must be dry, paved with relatively smooth concrete or asphalt, and substantially free of:
 - 1) Holes or other defects which would cause a motor vehicle to emit irregular tire, body or chassis impact noise; and

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- 2) Loose material, such as gravel or sand.
- f) The traveled lane of the highway on which the microphone target point is situated must not pass through a tunnel or underpass located within 200 feet (61 m) of that point.

Section 952.122 Restricted Site Characteristics

- a) Restricted measuring sites are those sites where sound reflecting surfaces are close to either the microphone or the microphone target point as specified in Section 952.120(c).
- b) Measurements shall be made at a test site which is adjacent to, and includes a portion of a traveled lane of a public highway. A microphone target point shall be established on the centerline of the traveled lane of the highway and microphone location point shall be established on the ground surface not less than 26 feet (7.9 m) or more than 100 feet (30.2 m) from the microphone target point and on a line that is perpendicular to the centerline of the traveled lane of the highway and that passes through the microphone target point.
- c) A sound reflecting surface is any building, signboard, hillside or similar object, within the measurement site, that reflects sufficient sound to affect the sound level readings obtained from passing vehicles. Such sound reflecting surfaces make this site a restricted measurement site. Some sound reflecting surfaces require a correction to the measured sound level.

- 1) Surfaces not requiring correction. The following surfaces and objects within the measuring site do not require a correction factor:

- A) Small cylindrical objects such as fire hydrants or telephone or utility poles located 3 feet (1 m) or more from the microphone.
- B) Rural mailboxes located 3 feet (1 m) or more from the microphone.
- C) Traffic railings of any type of construction except solid concrete barriers.
- D) Chain-link fences or any vegetation such as bushes, shrubs, hedges and grass.
- E) One or more curbs having a vertical height of 1 foot (.3 m) or less.
- F) The following objects may be within the measurement site if they are outside of the triangular measurement area of the site:
- Any vertical surface (such as a billboard), regardless of size, having a lower edge more than 15 feet (4.6 m) higher than the surface of the traveled lane of the highway.
 - Any uniformly smooth sloping surface slanting away from the highway (such as a rise in grade alongside the highway) with a slope that is less than 45 degrees

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- above the horizontal.
- iii) Any surface slanting away from the highway that is 45 degrees or more and not more than 90 degrees above the horizontal, if all points on the surface are more than 15 feet (4.6 m) above the surface of the traveled lane of the highway.

- 2) Surfaces Requiring Correction. Sound level measurements may be made with appropriate corrections when sound reflecting surfaces are within the measuring site as shown in Appendix B. Measurements may be made only when the sound reflecting surfaces are basically parallel to the lane of travel.

- A) A basically parallel surface may have irregularities or projections of not more than 2 feet (.6 m) measured perpendicular to the lane of travel, with the distance to the microphone line or vehicle path measured from the closest point of the projection.
- B) Sound reflecting surfaces not basically parallel to the lane of travel shall be a minimum of 35 feet or B, whichever is greater, from the microphone and microphone target point. (B is the distance between the microphone and microphone target point as shown in Appendix B.) This restriction does not apply to surfaces that are perpendicular to the lane of travel and behind the parallel surface for which corrections are made, such as a fence or the side walls of a building.
- C) Distance measurements from smooth embankments covered with vegetation, concrete, asphalt, dirt or other relatively smooth cover shall be made from the point where the slope begins to exceed 45 degrees above horizontal. Measurements from non-smooth embankments shall be made from the point where the irregularity begins.

- 3) Correction Factors for Sound Reflecting Surfaces. Correction factors to be added to the applicable sound level limits when there are sound reflecting surfaces within the restricted measurement site shall be determined as follows:

- A) Reflecting Surfaces. Sites with sound reflecting surfaces basically parallel to the vehicle path within the measuring area shown in Appendix B may be used by measuring the distances shown in Appendix B and adding the correction factor obtained from the nomogram in Appendix E to the applicable sound level limit.
- B) Measuring Distances to Determine Correction. Measurement "D" is the shortest distance between the centerline of the lane of travel and the reflecting surface located on the opposite side of the lane of travel from the measurement location (see Appendices B, C and D). Measurement "L" is the shortest distance between a line parallel to the lane of travel passing through the microphone and the reflecting surface behind the measurement location (see Appendices B, C

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and D).

- C) Determining Correction Factor. Locate the points on the left and right scales of Appendix E corresponding to the distances "D" and "L" in Appendices B and C. Place a straight edge across the nomogram so that it connects the two points. The point where the straight edge intersects the center axis indicates the correction factor to be added to the applicable sound level limit.
- 4) Correction Factor for a Microphone Mounted on a Passenger Car. A correction factor of 1dB shall be added to the applicable sound level limit when a microphone is mounted on a passenger car.

Section 952.123 Ambient Conditions

a) Sound

- 1) The ambient A-weighted sound level at the microphone location point shall be measured, in the absence of motor vehicle noise emanating from within the clear zone, with fast meter response using a sound level measurement system that conforms to these procedures.
- 2) The measured ambient level of non-motor vehicle sound must be 10 dB(A) or more below that level which corresponds to the maximum permissible sound level reading which is applicable at the test site at the time of testing. The maximum permissible sound level reading is the sound level limit appropriate for each vehicle type, plus the site corrections.

- b) Wind. Noise measurements may only be made if the measured wind velocity is 12 miles per hour (mph) (19.3 kilometers per hour (kph)) or less. The wind velocity at the test site shall be measured at the beginning of each series of noise measurements and at intervals of 5-15 minutes thereafter until it has been established that the wind velocity is essentially constant. Once that fact has been established, wind velocity measurements may be made at intervals of once every hour. Gust wind measurements of up to 20 mph (33.2 kph) are allowed, although sound level measurements may not be taken at these times.

- c) Precipitation. Sound level measurements are prohibited under any condition of precipitation, however, measurements may be made with snow on the ground. The ground surface within the measurement area must be free of standing water.

Section 952.124 Location and Operation of Sound Level Measurement System

a) Microphone Position

- 1) Unless mounted on a passenger car, the microphone of a sound level measurement system that conforms to this report shall be located at a height of not less than 2 feet (.6m) nor more than 6 feet (1.8 m) above the plane of the roadway surface and not less

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than 3.5 feet (1.1 m) above the surface on which the microphone stands. The preferred microphone height on flat terrain is 4 feet (1.2 m).

- A) When the sound level measurement system is hand-held or is otherwise monitored by a person located near its microphone, the holder must orient himself relative to the highway in a manner consistent with the recommendation of the manufacturer of the sound level measurement system.

- B) In no case shall the meter holder or observer be closer than 2 feet (.6 m) from the system's microphone, nor shall he locate himself between the microphone and the vehicle being measured.

- 2) If mounted on a passenger car, the microphone of a sound level measurement system that conforms to this report shall be located in the following manner:

- A) The microphone shall be located 1 foot (.3 m) plus or minus 1/2 foot (.15 m) above the roof of the passenger car (see Appendix I, Figure 1).

- B) The microphone shall be located in the vertical plane of the edge of the roof on the driver's side of the passenger car plus or minus 1/2 foot (.15 m) (see Appendix I, Figure 2).

- C) The microphone shall be located between the front and back edges of the roof of the passenger car.

- D) The passenger car shall be positioned either perpendicular or parallel to the lane of travel.

- b) The microphone of the sound level measurement system shall be oriented toward the traveled lane of the highway at the microphone target point at an angle that is consistent with the recommendation of the system's manufacturer. If the manufacturer of the system does not recommend an angle of orientation for its microphone, the microphone shall be oriented toward the highway at an angle of not less than 70 degrees and not more than perpendicular to the horizontal plane of the traveled lane of the highway at the microphone target point.

- c) The sound level measurement system shall be set to the A-weighting network and "fast" meter response mode.

Section 952.125 Measurement Procedure

- a) In accordance with this Subpart, a measurement shall be made of the sound level generated by a motor vehicle operating through the measurement area on the traveled lane of the highway within the test site, regardless of the highway grade, load, acceleration or deceleration.

- b) The sound level generated by the motor vehicle is the highest reading observed on the sound level measurement system as the vehicle passes through the measurement area, corrected, when appropriate, in accordance with these measurement procedures. The sound level of the vehicle being measured must be observed to rise at least 6 dB(A)

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before the maximum sound level occurs and to fall at least 6 dB(A) after the maximum sound level occurs in order to be considered a valid sound level reading.

SUBPART D: MEASUREMENT OF NOISE
EMISSIONS: STATIONARY TEST

Section 952.130 Scope of this Subpart

- a) This Subpart specifies conditions and procedures for measuring the sound level generated by a vehicle when the vehicle's engine is rapidly accelerated from idle to governed speed at wide open throttle with the vehicle stationary, its transmission in neutral, and its clutch engaged, for the purpose of ascertaining whether the motor vehicle conforms with 35 Ill. Adm. Code 902.121(c) or 902.123(d).
- b) This Subpart applies only to a motor vehicle with GVW in excess of 8,000 pounds that is equipped with an engine speed governor.
- c) Tests conducted in accordance with this Subpart may be made on either side of the vehicle.

Section 952.131 Site Characteristics

- a) The motor vehicle to be tested shall be parked on the test site. A microphone target point shall be established on the ground surface of the site on the centerline of the lane in which the motor vehicle is parked at a point that is within 3 feet (.9 m) of the longitudinal position of the vehicle's exhaust system outlet(s). A microphone location point shall be established on the ground surface not less than 35 feet (10.7 m) and not more than 83 feet (25.3) from the microphone target point. Within the test site is a triangular measurement area. A plan view diagram of a standard stationary test site, is shown in Appendix F.
- b) The test site must be an open site, essentially free of large sound-reflecting objects. However, the following objects may be within the test site, including the triangular measurement area:
 - 1) Small cylindrical objects such as fire hydrants or telephone or utility poles located 3 feet (1 m) or more from the microphone.
 - 2) Rural mailboxes located 3 feet (1 m) or more from the microphone.
 - 3) Traffic railings of any type of construction except solid concrete barriers.
 - 4) Chain-link fences or any vegetation such as bushes, shrubs, hedges and grass.
 - 5) One or more curbs having a height of 1 foot (.3 m) or less.
- c) The following objects may be within the test site if they are outside of the triangular measurement area of the site:
 - 1) Any vertical surface, regardless of size (such as a billboard), having a lower edge more than 15 feet (4.6 m) above the ground.
 - 2) Any uniformly smooth surface slanting away from the vehicle with

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- 3) Any surface slanting away from the vehicle that is 45 degrees or more and not more than 90 degrees above the horizontal, if all points on the surface are more than 15 feet (4.6 m) above the surface of the ground in the test site.
- d)
 - 1) The surface of the ground within the measurement area must be relatively flat. The site shall be a "hard" site. However, if the site is determined to be "soft," the correction factor specified below shall be subtracted from the applicable sound level limit.
 - 2) When measurements are made upon a test site which is "soft," a correction factor of 2 dB(A) shall be subtracted from the sound level limits of 35 Ill. Adm. Code 902.121(c) and 902.123(d).

Section 952.132 Ambient Conditions

- a) Sound
 - 1) The ambient A-weighted sound level at the microphone location point shall be measured, in the absence of motor vehicle noise emanating from within the clear zone, with fast meter response using a sound level measurement system that conforms to these procedures.
 - 2) The measured ambient level must be 10 dB(A) or more below that level which corresponds to the maximum permissible sound level reading which is applicable at the test site at the time of testing. The maximum permissible sound level reading is the sound level limit plus the necessary site corrections.
- b) Wind. Noise measurements may only be made if the measured wind velocity is 12 mph (19.3 kph) or less. The wind velocity at the test site shall be measured at the beginning of each series of noise measurements and at intervals of 5-15 minutes thereafter until it has been established that the wind velocity is essentially constant. Once this fact has been established, wind velocity measurements may be made at intervals of once every hour. Gust wind measurements of up to 20 mph (33.2 kph) are allowed, although sound level measurements may not be taken at these times.
- c) Precipitation. Measurements are prohibited under any conditions of precipitation, however, measurements may be made with snow on the ground. The ground within the measurement area must be free of standing water.

Section 952.133 Location and Operation of Sound Level Measurement System

- a) The microphone of a sound level measurement system that conforms to these measurement procedures shall be located at a height of not less than 2 feet (.6 m) nor more than 6 feet (1.8 m) above the plane of the roadway surface and not less than 3.5 feet (1.1 m) above the surface

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on which the microphone stands. The preferred microphone height on flat terrain is 4 feet (1.2 m).

- b) When the sound level measurement system is hand-held or otherwise monitored by a person located near its microphone, the holder must orient himself relative to the highway in a manner consistent with the recommendation of the manufacturer of the sound level measurement system. In no case shall the holder or observer be closer than 2 feet (.6 m) from the system's microphone, nor shall he locate himself between the microphone and the vehicle being measured.
- c) The microphone of the sound level measurement system shall be oriented toward the vehicle at an angle that is consistent with the recommendation of the system's manufacturer. If the manufacturer of the system does not recommend an angle of orientation for its microphone, the microphone shall be oriented at an angle of not less than 70 degrees and not more than perpendicular to the horizontal plane of the test site at the microphone target point.
- d) The sound level measurement system shall be set to the A-weighting network and "fast" meter response mode.

Section 952.134 Measurement Procedure

In accordance with this Subpart, a measurement shall be made of the sound level generated by a stationary motor vehicle as follows:

- a) Park the motor vehicle on the test site as specified in this Subpart. If the motor vehicle is a combination (articulated) vehicle, park the combination so that the longitudinal centerlines of the towing vehicle and the towed vehicle or vehicles are in substantial alignment.
- b) Turn off all auxiliary equipment which is installed on the motor vehicle and which is designed to operate under normal conditions only when the vehicle is operating at a speed of 5 mph (8 kph) or less. Examples of such equipment include cranes, asphalt spreaders, liquid or slurry pumps, auxiliary air compressors, welders and trash compactors.
- c) If the motor vehicle's engine radiator fan drive is equipped with a clutch or similar device that automatically either reduces the rotational speed of the fan or completely disengages the fan from its power source in response to reduced engine cooling loads, park the vehicle before testing with its engine running at high idle or any other speed the operator may choose, for sufficient time but not more than 10 minutes, to permit the engine radiator fan to automatically disengage when the vehicle's noise emissions are measured under stationary test.
- d) With the motor vehicle's transmission in neutral and its clutch engaged, rapidly accelerate the vehicle's engine from idle to its maximum governed speed with wide open throttle. Return the engine's speed to idle.
- e) Observe the maximum reading on the sound level measurement system during the time the procedures specified in subsection (d) are

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followed. Record that reading, if the reading has not been influenced by extraneous noise sources such as motor vehicles operating on adjacent roadways.

- f) Repeat the procedures specified in subsections (d) and (e) until the first two maximum sound level readings that are within 2 dB(A) of each other are recorded. Numerically average those two maximum sound level readings.
- g) The average reading, obtained in accordance with subsection (f), is the sound level generated by the motor vehicle for the purpose of determining whether it conforms with the equivalent sound level limits of 35 Ill. Adm. Code 902.121(c) or 902.123(d).

SUBPART E: MICROPHONE DISTANCE CORRECTION FACTORS

Section 952.140 Microphone Distance Correction Factors

- a) Scope of this Subpart

1) This Subpart specifies correction factors which are added to the applicable sound level limit to be compared with the measured sound level generated by a motor vehicle.

2) The purpose of adding a correction factor is to determine equivalent sound level limits for distances between the microphone target point and the microphone location point other than 50 feet (15.2 m).

- b) Microphone Distance Correction Factors

If the distance between the microphone location point and the microphone target point is other than 50 feet (15.2 m), the equivalent sound level limit shall be determined by adding the correction factor specified in the following table to the applicable sound level limit:

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If the distance between the microphone location point and the microphone target point is:

26 feet (7.9 m) or more but less than 29 feet (8.8 m)

29 feet (8.8 m) or more but less than 32 feet (9.8 m)

32 feet (9.8 m) or more but less than 35 feet (10.7 m)

35 feet (10.7 m) or more but less than 39 feet (11.9 m)

39 feet (10.7 m) or more but less than 43 feet (13.1 m)

43 feet (13.1 m) or more but less than 48 feet (14.6 m)

48 feet (14.6 m) or more but less than 58 feet (17.7 m)

58 feet (17.7 m) or more but less than 70 feet (21.3 m)

70 feet (21.3 m) or more but less than 83 feet (25.3 m)

83 feet (25.3 m) or more but less than 100 feet (30.2 m)

c) Application of Correction Factors

If two or more correction factors apply to a sound level limit they are applied cumulatively.

SUBPART F: EXHAUST SYSTEMS AND TIRES

Section 952.150 Exhaust Systems and Tires

a) Exhaust Systems

A motor vehicle does not conform to the visual exhaust system inspection requirements of 35 Ill. Adm. Code 902.101 and 902.123(b), if inspection of the exhaust system of the motor vehicle discloses that the system:

1) Has a defect which adversely affects sound reduction, such as

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exhaust gas leaks or alteration or deterioration of muffler elements (small traces of soot or flexible exhaust pipe sections shall not constitute a violation of 35 Ill. Adm. Code 902.101 and 902.123(b);

2) Is not equipped with either a muffler or other noise dissipation device; or

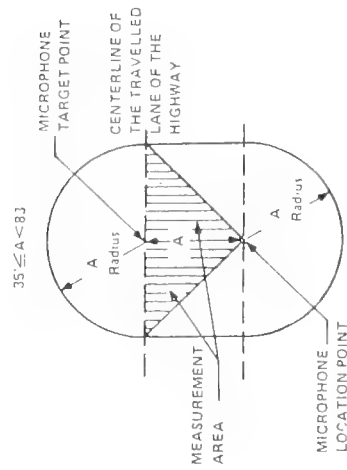
3) Is equipped with a cut-out, by-pass or similar device, unless such device is designed as an exhaust gas driven cargo unloading system.

b) Tires. A motor vehicle does not conform to the visual tire inspection requirements, 35 Ill. Adm. Code 902.102 and 902.123(b), if inspection of any tire on which the vehicle is operating discloses that the tire has a tread pattern composed primarily of cavities in the tread (excluding sipes and local chunking) which are not vented by grooves to the tire shoulder or circumferentially to each other around the tire.

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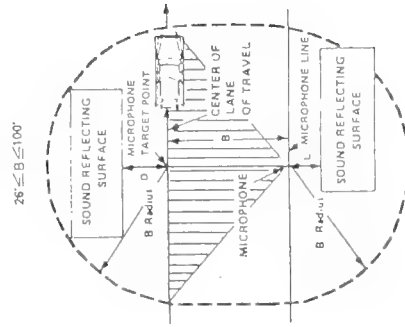
952.APPENDIX A STANDARD TEST SITE: HIGHWAY OPERATIONS



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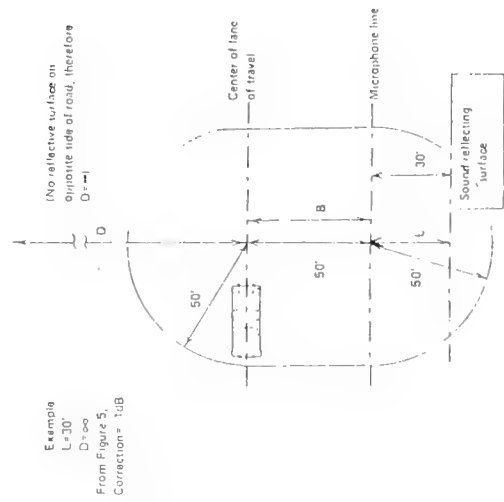
952.APPENDIX B RESTRICTED MEASURING SITE: HIGHWAY OPERATIONS



952.APPENDIX C RESTRICTED MEASURING SITE "D" AND "L" DETERMINATION
FOR REFLECTIVE SURFACE CORRECTION



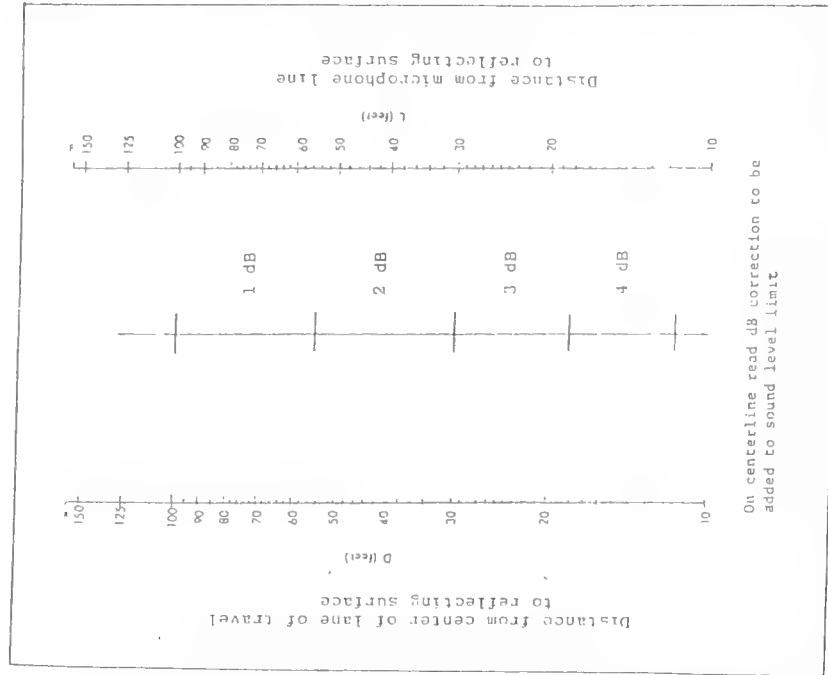
952.APPENDIX D EXAMPLE OF D AND L DETERMINATION



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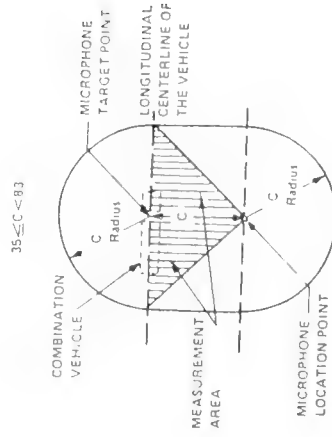
952.APPENDIX E NOMOGRAPH TO DETERMINE CORRECTIONS FOR REFLECTIVE SURFACES



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952.APPENDIX F STANDARD TEST SITE: STATIONARY TEST

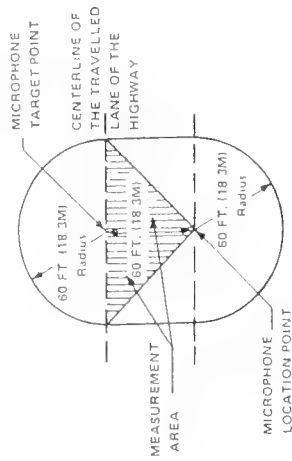


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952.APPENDIX G

EXAMPLE OF STANDARD TEST SITE: HIGHWAY OPERATIONS
(60 FEET (18.3m) DISTANCE BETWEEN MICROPHONE LOCATION
AND TARGET POINTS)

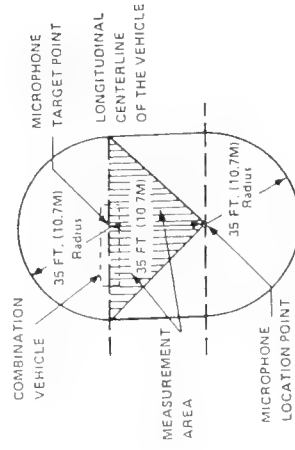


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952.APPENDIX H

EXAMPLE OF STANDARD TEST SITE: STATIONARY TEST (35
FEET (10.7m) DISTANCE BETWEEN MICROPHONE LOCATION
AND TARGET POINTS)



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Section 952.APPENDIX J Old Rule Numbers Referenced

The following table is provided to aid in referencing old Agency rule numbers to section numbers pursuant to codification.

Old	35 Ill. Adm. Code Part 952	Code
Part A	Section 952.100	
Part B	Section 952.110	
Part C	Section 952.120	
	Section 952.121	
	Section 952.122	
	Section 952.123	
	Section 952.124	
	Section 952.125	
	Section 952.130	
	Section 952.131	
	Section 952.132	
	Section 952.133	
	Section 952.134	
	Section 952.140	
	Section 952.150	
Part D	Appendix A	
	Appendix B	
	Appendix C	
	Appendix D	
	Appendix E	
	Appendix F	
	Appendix G	
	Appendix H	
	Appendix I	
	Appendix J	

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Section 952.APPENDIX I PASSENGER CAR MICROPHONE MOUNTING POSITIONS

The microphone is to be installed in the rear of the roof on the rear side of the passenger car (right or left) 1 to 15 feet

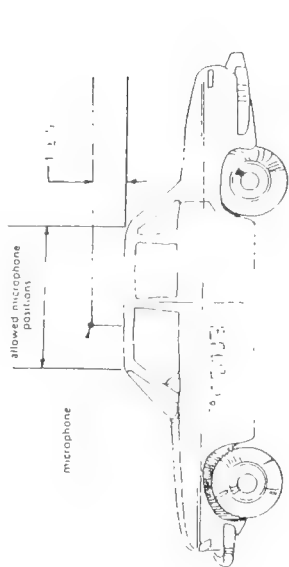


Figure 1 Elevation view

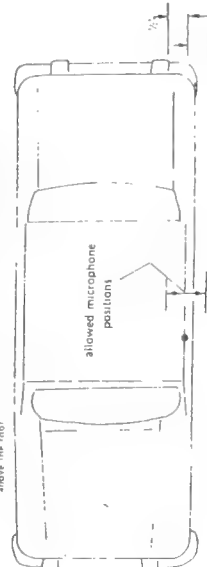


Figure 2 Plan view

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Food Stamps
- 2) Code Citation: 89 Ill. Adm. Code 121
- 3) Section Numbers: 121.63
Proposed Action: Amend
- 4) Statutory Authority: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].
- 5) A Complete Description of the Subjects and Issues involved: This rulemaking increases the State Utility Standard used for computation for Food Stamp benefits.
- 6) Will this proposed amendment replace an emergency amendment currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield IL 62762
(217) 785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

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- B) Reporting, bookkeeping or other procedures required for compliance:
None
- C) Types of professional skills necessary form compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: January 2001

The full text of the Proposed Amendments is identical to the text of the *Emergency Amendments* published in this issue of the *Illinois Register* on page 2258.

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3) Section Numbers: Proposed Action:
148.70 Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Complete Description of the Subjects and Issues Involved: These proposed amendments are intended to allow the Department to discontinue pre-payment reviews for hospitals that have demonstrated low denial rates related to appropriateness and necessity of inpatient psychiatric care. Currently, Section 148.70 requires the Department to conduct prepayment review after all instances of inpatient psychiatric care to determine the medical necessity of the hospital stay. However, certain hospitals have consistently shown that in most cases, psychiatric hospital stays are medically warranted. Therefore, rule revisions to subsection (e) are being proposed to allow flexibility to the Department to exercise discretion as to when services will be subject to prepayment reviews.

Proposed changes are also being made to Section 148.70 regarding costs for kidney acquisition and end-stage renal disease treatment (ESRDT). The proposed changes to subsection (f) regarding kidney acquisition costs provide updates by striking obsolete language; these acquisition costs payments were eliminated July 1, 1995, in response to Public Act 88-554. Similarly, subsection (g) on ESRDT is being stricken because the provisions on screening recipients by the Department of Public Health are no longer applicable to inpatient environments.

These proposed amendments are not expected to result in any expenditure changes.

- 6) Will these proposed amendments replace emergency amendments currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes
- | | | |
|---------------------|------------------------------|--|
| Sections
148.296 | Proposed Action
Amendment | Illinois Register Citation
24 Ill. Reg. 18984, 12/29/00 |
|---------------------|------------------------------|--|
- 10) Statement of Statewide Policy Objectives: These proposed amendments do not affect units of local government.

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- 11) Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Jones
Office of the General Counsel, Rules Section
Illinois Department of Public Aid
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002
(217)524-0081

The Department requests the submission of written comments within 30 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

These proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Department at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as small businesses, small municipalities, or not-for-profit corporations as part of any written comments they submit to the Department.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Medicaid funded hospitals
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on Which this Rulemaking Was Summarized: July 2000

The full text of the proposed amendments begins on the next page:

DEPARTMENT OF PUBLIC AID

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF PUBLIC AID

SUBCHAPTER d: MEDICAL PROGRAMS

PART 148

HOSPITAL SERVICES

Section	
148.10	Hospital Services
148.20	Participation
148.25	Definitions and Applicability
148.30	General Requirements
148.40	Special Requirements
148.50	Covered Hospital Services
148.60	Services Not Covered as Hospital Services
148.70	Limitation On Hospital Services
148.80	Organ Transplant Services Covered Under Medicaid (Repealed)
148.82	Organ Transplant Services
148.90	Heart Transplants (Repealed)
148.100	Liver Transplants (Repealed)
148.110	Bone Marrow Transplants (Repealed)
148.120	Disproportionate Share Hospital (DSH) Adjustments
148.130	Outlier Adjustments for Exceptionally Costly Stays
148.140	Hospital Outpatient and Clinic Services
148.150	Public Law 103-66 Requirements
148.160	Payment Methodology for County-Owned Hospitals in an Illinois County with a Population of Over Three Million
148.170	Payment Methodology for Hospitals Organized Under the University of Illinois Hospital Act
148.175	Supplemental Disproportionate Share Payment Methodology for Hospitals Organized Under the Town Hospital Act
148.180	Payment for Pre-operative Days, Patient Specific Orders, and Services Which Can Be Performed in an Outpatient Setting
148.190	Copayments
148.200	Alternate Reimbursement Systems
148.210	Filing Cost Reports
148.220	Pre September 1, 1991 Admissions
148.230	Admissions Occurring on or after September 1, 1991
148.240	Utilization Review and Furnishing of Inpatient Hospital Services Directly or Under Arrangements
148.250	Determination of Alternate Payment Rates to Certain Exempt Hospitals
148.260	Calculation and Definitions of Inpatient Per Diem Rates
148.270	Determination of Alternate Cost Per Diem Rates for All Hospitals; Payment Rates for Certain Exempt Hospital Units; and Payment Rates for Certain Other Hospitals
148.280	Reimbursement Methodologies for Children's Hospitals and Hospitals Reimbursed Under Special Arrangements
148.285	Excellence in Academic Medicine Payments

DEPARTMENT OF PUBLIC AID

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Adjustments and Reductions to Total Payments
Critical Hospital Adjustment Payment (CHAP)

Supplemental Critical Hospital Adjustment Payments (SCHAP)

Pediatric Outpatient Adjustment Payments

Pediatric Inpatient Adjustment Payments

Payment

Review Procedure

Alternatives

Exemptions

Subacute Alcoholism and Substance Abuse Treatment Services

Definitions (Repealed)

Types of Subacute Alcoholism and Substance Abuse Treatment Services

(Repealed)

Volume Adjustment (Repealed)

Payment for Subacute Alcoholism and Substance Abuse Treatment Services

Rate Appeals for Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)

Hearings

Special Hospital Reporting Requirements

AUTHORITY: Implementing and authorized by Articles III, IV, V, VI, and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398 at 13 Ill. Reg. 9572; Section 148.120 recodified from 89 Ill. Adm. Code 140.110 at 13 Ill. Reg. 12118; amended at 14 Ill. Reg. 2553, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15358, effective September 13, 1990; amended at 14 Ill. Reg. 16998, effective October 4, 1990; amended at 14 Ill. Reg. 18293, effective October 30, 1990; amended at 14 Ill. Reg. 18499, effective November 8, 1990; emergency amendment at 15 Ill. Reg. 10502, effective July 1, 1991, for a maximum of 150 days; emergency expired October 29, 1991; emergency amendment at 15 Ill. Reg. 12005, effective August 9, 1991, for a maximum of 150 days; emergency expired January 6, 1992; emergency amendment at 15 Ill. Reg. 16166, effective November 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18684, effective December 23, 1991; amended at 16 Ill. Reg. 6255, effective March 27, 1992; emergency days; emergency expired November 27, 1992; emergency amendment at 16 Ill. Reg. 11335, effective June 30, 1992, for a maximum of 150 days; emergency expired July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 14778, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19873, effective December 7, 1992; amended at 17 Ill. Reg. 131, effective December 21, 1992; amended at 17 Ill. Reg. 3296, effective March 1, 1993; amended at 17 Ill. Reg. 6649, effective April 21, 1993; amended at 17 Ill. Reg. 14643, effective August 30, 1993; emergency amendment at 17 Ill. Reg. 17323, effective October 1, 1993, for a maximum of 150 days; amended

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at 18 Ill. Reg. 3450, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 12853, effective August 2, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14117, effective September 1, 1994; amended at 18 Ill. Reg. 17648, effective November 29, 1994; amended at 19 Ill. Reg. 1067, effective January 20, 1995; emergency amendment at 19 Ill. Reg. 3510, effective March 1, 1995, for a maximum of 150 days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 6709, effective May 12, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10060, effective June 29, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective September 5, 1995; amended at 19 Ill. Reg. 16630, effective November 28, 1995; amended at 20 Ill. Reg. 872, effective December 29, 1995; amended at 20 Ill. Reg. 7912, effective May 31, 1996; emergency amendment at 20 Ill. Reg. 9281, effective July 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 12510, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 21 Ill. Reg. 607, effective January 2, 1997; amended at 21 Ill. Reg. 8386, effective June 23, 1997; emergency amendment at 21 Ill. Reg. 9552, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9822, effective July 2, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 10147, effective August 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13349, effective September 23, 1997; emergency amendment at 21 Ill. Reg. 13675, effective September 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16161, effective November 26, 1997; amended at 22 Ill. Reg. 1408, effective December 29, 1997; amended at 22 Ill. Reg. 3083, effective January 26, 1998; amended at 22 Ill. Reg. 11514, effective June 22, 1998; emergency amendment at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 15027, effective August 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16273, effective August 28, 1998; amended at 22 Ill. Reg. 21490, effective November 25, 1998; amended at 23 Ill. Reg. 5784, effective April 30, 1999; amended at 23 Ill. Reg. 7115, effective June 1, 1999; amended at 23 Ill. Reg. 7908, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8213, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12772, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13621, effective November 1, 1999; amended at 24 Ill. Reg. 2400, effective February 1, 2000; amended at 24 Ill. Reg. 3845, effective February 25, 2000; emergency amendment at 24 Ill. Reg. 10386, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 11846, effective August 1, 2000; amended at 24 Ill. Reg. 16067, effective October 16, 2000; amended at 24 Ill. Reg. 17146, effective November 1, 2000; amended at 24 Ill. Reg. 18293, effective December 1, 2000; amended at 25 Ill. Reg. _____, effective _____.

Section 148.70 Limitation On Hospital Services

- a) Payment for inpatient hospital care in general and specialty hospitals shall be made only when it is recommended by a qualified physician,

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- and the care is essential as determined by the appropriate utilization review authority. For hospitals or distinct part units reimbursed on a per diem basis under Sections 148.160 through 148.170 and 148.250 through 148.300, payment shall not exceed the number of days approved for the recipient's care by the appropriate utilization review authority (see Section 148.240). If Medicare benefits are not paid because of non-approval by the utilization review authority, payment shall not be made on behalf of the Department.
- b) For hospitals or distinct part units reimbursed on a per case basis, payment for inpatient hospital services shall be made in accordance with 89 Ill. Adm. Code 149.
- c) For hospitals, or distinct part units reimbursed on a per diem basis, under Sections 148.160 through 148.170 and 148.250 through 148.300, payment for inpatient hospital services shall be made based on calendar days. The day of admission shall be counted. The day of discharge shall not be counted. An admission with discharge on the same day shall be counted as one day. If a recipient is admitted, discharged and re-admitted on the same day, only one day shall be counted.
- d) In obstetrical cases payment for services to both the mother and the newborn child shall be made at one per diem rate, or one per case rate, whichever is applicable. Only in instances in which the medical condition of the newborn, as certified by the utilization review authority, necessitates care in other than the newborn nursery, shall payment be made in the child's name.
- e) Payment for inpatient psychiatric hospital care in a psychiatric hospital, as defined in 89 Ill. Adm. Code 149.50(c)(1), shall be made only when such services have been provided in accordance with federal regulations at 42 CFR Part 441, Subparts C and D. Payment for all inpatient psychiatric services may be subject to a prepayment review. All prepayment review shall be conducted by the Department's designated peer review agent. Prepayment review shall be used to determine the appropriateness and necessity of the inpatient psychiatric care. Only inpatient psychiatric care medically necessary as determined by a physician licensed to practice medicine in all its branches, will be reimbursed by the Department. The following criteria exemplify the factors that shall be used to determine the medical necessity of inpatient psychiatric care:
- 1) The patient's condition indicates that he or she suffers from an acute psychological or physiological disorder requiring inpatient hospital intervention (including, but not limited to: acute disabling symptoms as a response to bio-psycho-social stress; acute danger to self or others; the medical necessity for interventions possible only in an inpatient hospital setting);
 - 2) A comprehensive treatment plan has been developed and progress documented for the patient (including, but not limited to: physician's progress notes; participation in medical psychotherapy; assessment of available rehabilitative resources;

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- creation of treatment goals).
- f) Payment for transplantation costs (with the exception of kidney and cornea transplants), including organ acquisition costs, shall be made only when provided by an approved transplantation center as described in Section 148.82. Payment for kidney and cornea transplantation costs does not require enrollment as an approved transplantation center and ~~Payment for kidney acquisition costs does not require enrollment as an approved transplantation center, but is only provided to hospitals reimbursed on a per case basis in accordance with 89 Ill. Adm. Code 149.~~
- g) ~~Payment for end-stage renal disease treatment shall be made only when provided to recipients who have been screened by and meet medical criteria established by the Department of Public Health.~~

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Illinois Alzheimer's Disease and Related Disorders Assistance Code
- 2) Code Citation: 77 Ill. Adm. Code 710
- 3) Section Numbers:
- | | |
|---------|-------------------------|
| 710.10 | <u>Proposed Action:</u> |
| 710.20 | Amendment |
| 710.30 | Amendment |
| 710.40 | Amendment |
| 710.100 | Amendment |
| 710.110 | Amendment |
| 710.120 | Amendment |
| 710.130 | Amendment |
| 710.140 | Amendment |
| 710.165 | Amendment |
| 710.200 | Amendment |
| 710.210 | Amendment |
| 710.220 | Amendment |
| 710.230 | Amendment |
- APPENDIX A

- 4) Statutory Authority: Alzheimer's Disease Research Act [410 ILCS 410] and Alzheimer's Disease Assistance Act [410 ILCS 405].
- 5) A Complete Description of the Subjects and Issues Involved: The rulemaking will implement P.A. 90-404 by changing the definition and designation criteria for Regional Alzheimer's Disease Assistance (ADA) Centers. The Public Act also requires an additional Center be located in the Chicago metropolitan area (a change from one to 2 Centers) and includes a revised funding formula for the distribution of funding to the Centers. Changes the Alzheimer's Disease Research Fund (ADRF) maximum award amounts and reporting requirements recommended by the Alzheimer's Disease Advisory Committee. Deletes label of "Alzheimer's victims" and makes other technical changes.
- 6) Will this proposed rule replace an emergency rule in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: The rulemaking does not create or expand a State mandate.
- 11) Time, Place and Manner in which interested persons may comment on this

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proposed rulemaking: A 45-day written comment period will begin on the day this notice of rulemaking appears in the *Illinois Register*. Please send written comments on the proposed rulemaking within 45 days after the publication of this issue of the *Illinois Register* to the attention of:

Paul Thompson, Staff Attorney
Illinois Department of Public Health
Division of Legal Services
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-2043
e-mail: rules@idph.state.il.us

12) Initial Regulatory Flexibility Analysis.

A) Type of Small Businesses, Small Municipalities, and Not-for-Profit Corporations affected: Alzheimer Disease Assistance Centers and social service agencies

B) Reporting, Bookkeeping, or Other Procedures required for compliance: Semiannual reporting requirements

C) Types of Professional Skills necessary for compliance: Administrative application and reporting skills

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on the most recent regulatory agendas because: the decision to propose this rulemaking had not been made when the Regulatory Agenda was finalized.

The full text of the Proposed Amendments begins on the next page:

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER 1: CHRONIC DISEASES

PART 710

ILLINOIS ALZHEIMER'S DISEASE AND RELATED DISORDERS ASSISTANCE CODE

SUBPART A: GENERAL PROVISIONS

Section	
710.10	Applicability
710.20	Definitions
710.30	Incorporated Materials
710.40	Availability of Information
710.50	Administrative Hearings

SUBPART B: REGIONAL ALZHEIMER'S DISEASE AND RELATED DISORDERS ASSISTANCE NETWORK

Section	
710.100	Description of the Network and Regions
710.110	Designation Criteria for Regional ADA Centers
710.120	Designation Procedures for Regional ADA Centers
710.130	Designation Criteria for Primary Providers
710.140	Designation Procedures for Primary Providers
710.150	Services Provided by Regional ADA Centers and Primary Providers
710.160	Diagnostic Evaluation of AD/DR Patients
710.165	Multi-disciplinary Team Responsibilities
710.170	Treatment
710.180	Support Services

SUBPART C: ALZHEIMER'S DISEASE AND RELATED DISORDERS GRANTS

Section	
710.200	Grants to Regional ADA ADRB-Assistance Centers
710.210	Grants from the Alzheimer's Disease Research Fund
710.220	Funding Criteria for Grants from the Alzheimer's Disease Research Fund
710.230	Criteria for Approval of Alzheimer's Disease Research Act Proposals

APPENDIX A Regions of Illinois Department of Public Health and Regional ADA Centers' Service Areas ADRB

AUTHORITY: Implemented and authorized by the Alzheimer's Disease Research Act [410 ILCS 410] and Alzheimer's Disease Assistance Act [410 ILCS 410].

SOURCE: Emergency rules adopted at 10 Ill. Reg. 20029, effective November 21, 1986, for a maximum of 150 days; adopted at 11 Ill. Reg. 8743, effective April

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15, 1987; amended at 13 Ill. Reg. 16488, effective November 1, 1989; amended at 25 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 710.10 Applicability

The Illinois Alzheimer's Disease and Related Disorders Assistance Code (77 Ill. Adm. Code 710) applies to all facilities and health care providers designated as part of the statewide Alzheimer's disease and related disorders assistance network or facilities and providers requesting research grants. This Code creates a statewide system of regional and community-based services to provide for the identification, evaluation, diagnosis, referral and treatment of persons with victims--of Alzheimer's disease and related disorders. Further information concerning this Code can be obtained from the Illinois Department of Public Health at the following address:

Illinois Department of Public Health
Alzheimer's Disease Program
535 West Jefferson Street, Floor #2

Springfield, Illinois 62761-0001.

(Source: Amended at 25 Ill. Reg. _____, effective _____.)

Section 710.20 Definitions

"ACT" means the Alzheimer's Disease Assistance Act [410 ILCS 410] (~~111-Rev-Stat-1987-CH-111-127-PAR-6951-et-seq.~~).

"ADA Advisory Committee" or "Advisory Committee" or "Committee" means the Alzheimer's Disease Advisory Committee created under Section 6 of this Act. (Section 3(e) of the Act).

"Alzheimer's Disease and Related Disorders" or "AD" or "ARD" means a health condition resulting from significant destruction of brain tissue with resultant loss of brain function, including, but not limited to, progressive, degenerative and dementing illnesses including presenile and senile dementias, including Alzheimer's Disease and other related disorders. (Section 3(a) of the Act).

"Alzheimer's Disease Assistance Network" or "ADA Network" means the various health, mental health and social services agencies that provide referral, treatment and support services under standards and plans adopted and implemented in conjunction with a regional ADA center. (Section 3(d) of the Act).

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"Caregivers" means those individuals that provide a continuum of care to persons with ADRD victims; this definition includes family members, relatives, health care professionals, legal guardians, and other individuals.

"Case Management" means providing comprehensive needs assessment and services coordination to assist persons with ADRD victims and their families in gaining access to and receiving needed support services.

"Clearinghouse Services" means the procedure for the correlation of data and matching services to persons with ADRD victims and families.

"Clinical Diagnosis" or "diagnosis" means the process of identifying by means of an examination "Probable AD", "Possible AD", or and "Definite AD".

"Consultation" means information given by the multi-disciplinary team to persons who may be, or who have been, diagnosed with as-victims--of Alzheimer's disease and related disorders and to their family members and legal guardians.

"Dementia" or "primary dementia" or "dementing illness" means a loss of intellectual abilities of sufficient severity to interfere with social or occupational functioning.

"Department" means the Illinois Department of Public Health. (Section 3(f) of the Act).

"Detection" means the process of determining through identification and diagnostic evaluation the level of probable AD and geographic distribution of persons with victims--of Alzheimer's disease and related disorders.

"Diagnostic Evaluation" means evaluations of a person suspected of having Alzheimer's disease through physical, neurological and psychiatric evaluations. After other diseases have been ruled out, a determination of AD can usually be made on the basis of medical history, mental status and the course of the illness; the process of assessing cognitive abilities and deficits among persons who may be or who have been diagnosed with as-victims--of Alzheimer's disease and related disorders; and the process of assessing the social needs and capabilities of persons with ADRD victims, caregivers and family members.

"Identification" means the description of the specific form of dementing illness; it does not imply that the condition will have a particular course, duration or end-point.

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"Multi-Disciplinary Team" or "referral team" means a team approach that ~~which~~ assesses the needs and capabilities of persons with AD RD ~~AD~~ ~~victims~~ and family members; team members are drawn from the disciplines of medicine (general medicine, neurology, psychiatry), nursing, social work, psychology and occupational therapy.

"Primary Alzheimer's Provider" Or "Primary AD RD Provider" or "Primary Provider" means a licensed hospital, a medical center under the supervision of a physician licensed to practice medicine in all of its branches, or a medical center that provides medical consultation, evaluation, referral and treatment to persons who may be or who have been diagnosed as persons with ~~victims--of~~ Alzheimer's Disease or related disorders pursuant to policies, standards, criteria and procedures adopted under an affiliation agreement with a regional ADA center under ~~the this~~ Act. (Section 3(c) of the Act).

"Primary Investigator" means the person with prime responsibility for conducting a research project.

"Referral" means the process of linking persons who may be or who have been diagnosed as persons with ~~victims--of~~ Alzheimer's disease or related disorders with services in response to those needs.

"Regional Alzheimer's Disease Assistance Center" or "Regional ADA Center" means any a post-secondary higher educational institution having a medical school in affiliation with a medical center having a National Institutes of Health and National Institute on Aging sponsored Alzheimer's Disease Core Center. Any Regional ADA Center which was designated as having a National Alzheimer's Disease Core Center but no longer carries such designation shall continue to serve as a Regional ADA Center, and designated as such by the Illinois Department of Public Health under Section 4 of this Act. (Section 3(b) of the Act).

"Research" means a scientific investigation into possible causes, locations, progression, treatment, care and cure of Alzheimer's disease and related disorders.

"Research Act" means the Alzheimer's Disease Research Act [410 ILCS 410] ~~111-Rev-Stat-1987-ch-111-1/2-par-6901-et-seq-7~~.

"Service Area" means a specific geographic area of Illinois served by an ADA network containing a Regional ADA Center.

"Social Services Agencies" or "social agencies" or "resource agencies" or "other public and private resources" means entities that provide direct support and help to persons who may be or who have been diagnosed with ~~as-victims-of~~ Alzheimer's disease and related disorders

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and to their caregivers.

"Support Services" means both formal and informal resources that are available to the support system of caregivers, that ~~which~~ include family members, in order to meet the needs of persons with AD RD ~~victims~~, including nursing, adult day care, long term care, rehabilitation, mental health and social services.

"Training and Continuing Education" means all in-service training, staff development, refresher courses, workshops, conferences, institutes, telelectures and other educational methods used to assist health care professionals and caregivers in care and treatment of persons with AD RD ~~victims~~.

"Treatment" or "patient treatment" or "care and treatment" means everything that can be done to treat and support persons who may be or who have been diagnosed with ~~as-victims--of~~ Alzheimer's disease and related disorders in order to improve the quality of life, including support for their family members.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 710.30 Incorporated Materials

a) The following materials are incorporated or referenced in this Part:

- 1) Alzheimer's Disease Assistance Act [410 ILCS 410] ~~111-Rev-Stat-1987-ch-111-1/2-par-6901-et-seq-7~~ (See Section 710.20).⁷
 - 2) Alzheimer's Disease Research Act [410 ILCS 410] ~~111-Rev-Stat-1987-ch-111-1/2-par-6901-et-seq-7~~ (See Section 710.20).⁷
 - 3) Freedom of Information Code rules (2 Ill. Adm. Code 1126) (See Section 710.40).⁷
 - 4) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100) (See Section 710.50).⁷
 - 5) Protection of Identity of Research Subjects (42 CFR 2.4(a)-(j), 2a.6(a)-(b), and 20.7(a)-(b)) (See Section 710.230).
- b) All citations to federal regulation in this Part concern the specified regulations in the 1987 Code of Federal Regulations, unless another date is specified.
- c) All incorporations by reference of federal regulations and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any additions or deletions subsequent to the date specified.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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Section 710.40 Availability of Information

- a) All reports issued by the Department that which are aggregated to make it impossible to identify any patient or reporting facility, including the ADA Plan, shall be made available to the public pursuant to the Department's Freedom of Information Code rules (2 Ill. Adm. Code 1126) and the Freedom of Information Act [410 ILCS 410] ~~411-Rev-Stat-1987-ch-1167-par-201-et-seq.~~
- b) All requests from researchers for access to data must be submitted in writing to the Department. All these ~~such~~ requests will be reviewed according to ~~in accordance with~~ the provisions in Sections 710.210 and 710.220 of this Part.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

SUBPART B: REGIONAL ALZHEIMER'S DISEASE AND RELATED DISORDERS
ASSISTANCE NETWORK

Section 710.100 Description of the Network and Regions

The purpose of the Act is to create a network of services for patients suffering from Alzheimer's disease and related disorders and to establish diagnostic and treatment centers for Alzheimer's disease and related disorders. At least ~~2 one~~ Regional ADA Centers ~~Center~~ will serve the Chicago metropolitan and surrounding area, and at least one Regional ADA Center will serve the rest of the State ~~state~~. (See Section 710.100 Appendix A). These centers will be required to establish a network for the provision of services in their region. This network will consist of health services, mental health services, social services and primary providers accessible to patients and family members and will take advantage of community-based services that are already available and can be developed. The establishment of Alzheimer's disease and related disorders assistance network will facilitate development of a system for delivery and coordination of services to these patients and their families.

- a) An Alzheimer's disease assistance network is composed of ~~3 three~~ elements:
- 1) A Regional Alzheimer's Disease Assistance Center that ~~which~~ enters into affiliation agreements with primary and other providers for the provision of services. The principle duties of the Centers will be diagnostic evaluation, treatment, referral and research.
 - 2) Primary ADRD providers provide direct medical consultation, evaluation, referral and treatment.
 - 3) Other public and private resources providing health, mental health, and social services, such as local physicians, nursing homes, home-care providers, self-help and support groups.
- b) The regions consist of the following Illinois Department of Public Health regions:

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- 1) Chicago Region consists of Illinois Department of Public Health regions ~~6 and 7~~ that ~~seven-and-eight-which~~ are the same as Illinois Department on Aging's Regions ~~6, 7, 8, and 9~~ ~~six-seven-eight-and-nine~~.
- 2) ADRD Downstate Region consists of Illinois Department of Public Health regions ~~1, 2, 3, 4, and 5~~ that ~~one-two-three-four-five~~ and ~~six-which~~ are the same as Illinois Department on Aging's Regions ~~1, 2, 3, 4, 5, 10, and 11~~ ~~one-two-three-four-five-ten-and-eleven~~.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 710.110 Designation Criteria for Regional ADA Centers

To ~~in order to be designated considered-for-designation~~ by the Department as a Regional ADA Center, an applicant must ~~meet all of~~ ~~provide~~ the following criteria ~~documentation-and-information~~:

- a) ~~Be~~ ~~certification-of-the-applicant's-status-as~~ a post-secondary higher educational institution having a medical school in affiliation with a medical center and have a National Institutes of Health and National Institute of Aging sponsored Alzheimer's Disease Core Center or any Regional ADA Center that was designated as having a National Alzheimer's Disease Core Center, but no longer carries this designation.
- b) Identify ~~identification----~~ of a Regional Coordinator with responsibilities for monitoring all aspects of the Center's duties.
- c) Have a plan describing ~~A-description-of~~ how the region will be served (complying with Section 710.100), and which plan shall include at a minimum:
- 1) Specific geographic areas to be covered with specific services.
 - 2) Target populations to be served, including age groups by sex, race and population size.
- d) Have ~~A-description-of--the~~ on-site comprehensive diagnosis and treatment facilities and services available that ~~through--the~~ applicant shall include at a minimum identification-of:
- 1) Specific services that ~~which~~ comply with the criteria as set forth in Sections 710.150 to 710.180.
 - 2) Professional medical staff specially-trained for detection, diagnosis and treatment available to persons with ADRD ~~AD-victims~~ and families in the following areas:
 - A) Geriatric Medicine (including Internal Medicine and Family Practice),⁷
 - B) Neurology,⁷
 - C) Psychiatry,⁷
 - D) Pharmacology.
 - 3) Support staff trained as caregivers to persons with ADRD ~~AD victims and families~~.

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- 4) Equipment necessary for diagnosis and treatment available to persons with ADRD AB-victims and families.
- 5) Written plans for transportation services for outreach, which plans assure access to services for persons with AB-victims and families.
- 6) Any additional services, equipment, medical and support staff available to persons with ADRD AB-victims and families.
- 7) Medical and financial eligibility for services available to persons with ADRD AB-victims and families. (Section 4(e) of the Act)

e) Have the---identification--of consultation and referral services available through-the-applicant to persons with ADRD victims and their families, and for each service:

- 1) Have written A-description--of procedures to assure informed consent for referral and disclosure of information.
- 2) Have copies of consent forms available to persons with ADRD victims and family members.
- 3) Have written A-description-of procedures used by-the-applicant to assist persons with ADRD victims and their families in obtaining support services through primary and other providers.

f) Have A-description--of research facilities and programs conducted by the-applicant's faculty and students to discover the cause of, diagnosis, cure or treatment for Alzheimer's disease and related disorders that 7 shall include at a minimum:

- 1) Research under the Research Act that which complies with the criteria as set forth in Sections 710.210 and 710.220.
- 2) Research group members and affiliations.
- 3) Copies of progress reports for ongoing research, including research objectives.
- 4) Current source and amount of funding for research programs.
- 5) Procedures and forms used to obtain patient consent to participate in research.
- 6) Any preliminary or final reports on results and conclusions.

g) Have a list A-listing of scientific and medical research programs concerning Alzheimer's disease and related disorders other than those identified in subsection (f) that are designed to qualify for Federal funds that shall include--and for each program:

- 1) Principal investigator, research group members and affiliations.
- 2) Copies of progress reports for ongoing research, including research objectives.
- 3) Current source and amount of funding for research programs.
- 4) Potential sources of Federal financial participation.
- 5) Any preliminary or final reports on results and conclusions.

h) Have a A-description-of centralized data collection, processing and storage system facilities that will serve as a clearinghouse of information within the service area, which system shall include at a minimum identification-of:

- 1) Automated equipment available for recording, updating and

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tracking information to assist person's with Alzheimer's disease and related disorders victims, families, professionals and other providers.

- 2) Forms and procedures used to report and process information in the patients' medical records in relation to consultations, referrals and treatments by service providers within the Alzheimer's Disease Assistance network.
- 3) Telecommunications services available to persons with ADRD victims, families, professionals and other providers.

4) Information summaries describing the purpose, nature and scope of clearinghouse services available to person's with Alzheimer's disease and related disorders victims, families, professional and other providers.

5) Current fact sheets and information packets developed in areas of interest to family members, professional and other providers.

i) Maintain a A description of training and continuing education programs provided or planned for personnel, caregivers (including family members) within the service area and for each program the description shall include:

- 1) Goals, objectives, activities and outcomes.
- 2) Number of programs, participants and instructors.
- 3) Curriculum materials, non-print media, audiovisual and electronic equipment.
- 4) Evaluation forms and results.

j) Have a plan Plans for the identification of Primary Providers which providers will provide services throughout the region within the ADA network.

k) Have a plan Plans for the identification of other providers of service within the ADA network, and for each other provider of service that is identified:

- 1) Copies of written plans for complying with minimum standards for referral, treatment and support services (as set forth in Sections 710.150 to 710.170) adopted in conjunction with the Regional ADA Center applicant.
- 2) Financial eligibility criteria for receiving services.
- 3) Utilization reports on facilities and services available from other providers of service to persons with ADRD victims and families within the area.

4) Copies of reports on research and treatment.

l) Have written Written affiliation agreements with all identified and designated primary providers.

m) Have written A-description--of--the procedures for recording and reporting research and treatment results from primary providers and other providers to the service providers within the network and to the Department.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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Section 710.120 Designation Procedures for Regional ADA Centers

- a) ~~An applicant seeking designation as a Regional ADA Center must submit documentation and information in accordance with guidelines set forth in a Request for Proposal.~~ b) The Department shall designate 2 ~~no more than one~~ Regional ADA Centers in the Chicago metropolitan region and at least one in the downstate region based upon meeting the definition of a Regional ADA Center as defined in Section 710.20 ~~Center per region based upon the following criteria: degree of compliance with the provisions of the Act and this Part, and recommendations from the Alzheimer's Disease Advisory Committee.~~
- bc) Specific information concerning the designations ~~Request for Proposal~~ can be obtained by contacting the ~~Division of Chronic Diseases~~ Alzheimer's Program, Illinois Department of Public Health, 535 West Jefferson Street, Floor #2, Springfield, Illinois 62761-0001.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 710.130 Designation Criteria for Primary Providers

~~To in order to~~ be considered for designation as a primary provider, an applicant must provide the following documentation and information:

- a) Documentation that the applicant meets the definition of primary provider. (See Section 710.20, Definitions).
- b) Documentation of the applicant's actual or proposed affiliation with a Regional Alzheimer's Disease Assistance Center.
- c) A description of the proposed service area shall include at a minimum all of the following items:
- 1) Specific geographic areas to be covered with specific services.⁷
 - 2) Target populations to be served, including age groups by sex, race and population size.⁷
 - d) A description of the specific services to be provided which services comply with the criteria ~~as set forth~~ in Sections 710.160 to 710.180.⁷
 - e) A description of the professional medical staff, support staff and equipment to be provided.⁷
 - f) Written plans for transportation services for outreach which plans assure access to services for persons with AD/DRD victims and families.
 - g) Copies of written plans for complying with minimum standards for referral, treatment and support services under ~~as set forth in~~ Sections 710.160 to 710.180.⁷
 - h) Financial eligibility criteria for receiving services.⁷
 - i) Utilization reports on facilities and services available from primary providers to AD/DRD patients and families within the service area.⁷ ~~and~~
 - j) Copies of reports on research and treatment.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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Section 710.140 Designation Procedures for Primary Providers

An applicant may pursue designation as a primary provider through either of 2 ~~two~~ methods:

- a) In cooperation with an applicant seeking designation as a Regional ADA Center. The applicant for Center designation would submit information and documentation related to the potential primary provider in accordance with the criteria set forth in Sections 710.100(j) and 710.130.
- 1) All applicants that ~~which~~ meet the definition of "Primary Providers" and provide the information required in Section 710.130 shall be designated by the Department.
- 2) Each Regional Center will certify an applicant's documentation and information for designation as a primary provider.
- b) By application to the ~~Division of Chronic Diseases~~ Alzheimer's Disease Program, 535 West Jefferson, Floor #2, Springfield, Illinois 62761-0001, and according to in accordance with the criteria set forth in Section 710.130.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 710.165 Multi-disciplinary Team Responsibilities

- a) A multi-disciplinary ~~Multi-disciplinary~~ team shall be responsible for preparing and evaluating a care plan to meet the needs of the patient. This care plan shall include at a minimum all of the following items:
- 1) Examinations on inpatient or outpatient basis.⁷
 - 2) Review of prescriptions, medications, and ancillary treatments.⁷
 - 3) Backup for support services provided by other health care professionals.⁷
 - 4) Nursing needs assessment.⁷
 - 5) Education and training of family and caregivers on care and treatment.⁷
 - 6) Psychosocial services to AD/DRD patient and caregivers.⁷
 - 7) Evaluation of home environment of AD/DRD patient and caregivers.⁷
 - 8) Counseling caregivers and family members.⁷
 - 9) Identification of health care, support services, and other community based services to assist caregivers.
- b) Persons who may be or who have been clinically diagnosed as probably ~~probable~~ victims of ~~victims of~~ Alzheimer's disease and related disorders shall be referred by the multi-disciplinary team to social service agencies and other sources of care in response to identified needs.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

SUBPART C: ALZHEIMER'S DISEASE AND RELATED DISORDERS GRANTS

Section 710.200 Grants to Regional ADA ABRA-Assistance Centers

All Designated Regional ADA Centers shall receive grants from the Department based upon the funding formula provided in the Alzheimer's Disease Assistance Act and shall be subject to appropriation ~~number-of-centers--designated~~⁷--funds requested⁷ and the appropriated funds.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 710.210 Grants from the Alzheimer's Disease Research Fund

a) The Department shall make grants from the Alzheimer's Disease Research Fund. These grants will take 2 ~~two~~ forms: General Research Grants not to exceed \$30,000 \$28,888 and Early Researcher's Grants not to exceed \$35,000 \$30,888. The Department will fund General Research Grants on an annual basis. The maximum number of years of funding any one research project shall be two. A renewal application must be submitted for grants funded for 2 ~~two~~ years.

b) Applications shall be approved based upon the following criteria: degree of compliance with the Act and this Part, and recommendations from the Alzheimer's Disease Advisory Committee.

c) The exact amount and number of grants will depend upon amount of funds appropriated to the Department and the number of applications received and approved.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 710.220 Funding Criteria for Grants from the Alzheimer's Disease Research Fund

~~To in-order-to~~ be considered for grant funding from the Alzheimer's Disease Research Fund, an applicant must provide the Department with the following documentation and information:

a) For a Research Grant, certification that the applicant is one of the following:

- 1) A physician ~~a--physicians~~ licensed in Illinois to practice medicine in all of its branches⁷
- 2) A ~~licensed~~ hospital in Illinois⁷
- 3) A ~~licensed~~ laboratory in Illinois⁷
- 4) A ~~post-Secondary~~ Higher Educational Institution in Illinois⁷
- 5) ~~Any~~ other medical professionals (e.g., nurses, therapists, etc.).

b) For a Research Grant, an applicant shall submit the following documentation and information on research methodology:

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- 1) A brief description of the specific problem to be studied and a brief overview of the proposed methodology⁷
 - 2) Any hypotheses to be tested⁷
 - 3) The experimental design and procedures to be used⁷
 - 4) The research timetable⁷
 - 5) The methods ~~Methods~~ for collecting, analyzing and interpreting data⁷
 - 6) The facilities ~~Facilities~~, equipment and other resources to be used⁷ along with methods of use⁷
 - 7) A description of how the Research Grant would enable the applicant to pursue research that differs from any ongoing research by the applicant.
 - 8) The general ~~General~~ background, experience and qualifications of the applying institution or individuals. ~~individuals~~⁷
 - 9) A list of proposed personnel, both full-time and part-time, including curricula vitae of the principal researcher and other staff. ~~and~~
 - 10) The identification ~~identification~~ of the project's primary contact person.
 - 11) The total ~~total~~ budget for the research project for which the application is being made⁷
 - 12) All proposed funding sources and amounts including this grant, other grants, institutional support, and other sources⁷
 - 13) A line item budget for the funding period using a Budget Format provided by the Department⁷ and
 - 14) The identification of potential funding sources ~~A-proposed-budget covering-a-two-year-period-beyond-the-period-for-which-funding-is being-sought~~⁷ if the applicant is pursuing or intends to pursue on-going research.
- c) Criteria for Early Researcher's Grant,
- 1) Definition
 - i) An early researcher is one who at the time of funding:
 - i) has not been a primary investigator on any federally funded grant.
 - ii) is no more than 3 ~~three~~ years past completion of specialty training.
 - B) A researcher who applies for a multi-year project must meet criterion in subsection 710.220(c)(1)(A)(ii) only for the first year of the project.
 - 2) Responsibility

The design, organization, management and overall execution of the research must be carried out by the early researcher. Secretaries, technicians, statisticians, and the like may be used in an adjunction role, but specialized skills of the early researcher (e.g. clinical interviews, psychological tests, physical examination, complex laboratory studies) must be carried out by the early researcher.
 - 3) Commitment

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The early researcher must demonstrate by past achievements as well as future plans apart from the grant project that the person intends to commit a major part of the future to research in Alzheimer's Disease related areas.

4) Other Qualifications/Requirements

- A) Certification that the applicant has completed within the past 3 three years or will be in his/her final year of higher education training during the grant period;
 - B) The criteria outlined in Section 710.220(b)(1) through (7);⁷
 - C) The applicant's qualifications and experience and a brief overview of the applicant's career goals as they relate to Alzheimer's disease and related disorders research;⁷
 - D) A proposed line item budget for the funding period using a Budget Format provided by the Department.
 - E) Three letters of recommendation, including one from the applicant's supervisor or academic advisor.
- d) Funded applicants must comply with the following reporting procedures:
- 1) Submission to the Department of semiannual quarterly and yearly progress reports.
 - 2) Submission of a project year narrative to the Department.
- e) Solicitation of Research Proposals
- Research proposals will be solicited in response to a Request for Proposals prepared and distributed by the Department.
- f) Proposal Evaluation
- Research proposals will be evaluated by a review panel selected from the Alzheimer's Disease Advisory Committee. The applications shall be evaluated and ranked according to degree of compliance with the Act and this Part.

(Source: Amended at 25 Ill. Reg. _____, effective _____.)

Section 710.230 Criteria for Approval of Alzheimer's Disease Research Act Proposals

- a) All requests by researchers for confidential data must be submitted in writing to the Department. The request must include a study protocol that which contains: objectives of the research; rationale for the research including scientific literature justifying current proposal; overall study methods, including copies of forms, questionnaires, and consent forms used to contact facilities, physicians or study subjects; methods for the processing of data; storage and security measures taken to ensure confidentiality of patient identifying information; time frame of the study; a description of the funding source of the study (e.g., federal contract); the curriculum vitae of the principal investigator and a list of collaborators. (42 CFR 2.44(a)-(j), 2a.6(a)-(b), and 20.7(a)-(b)).

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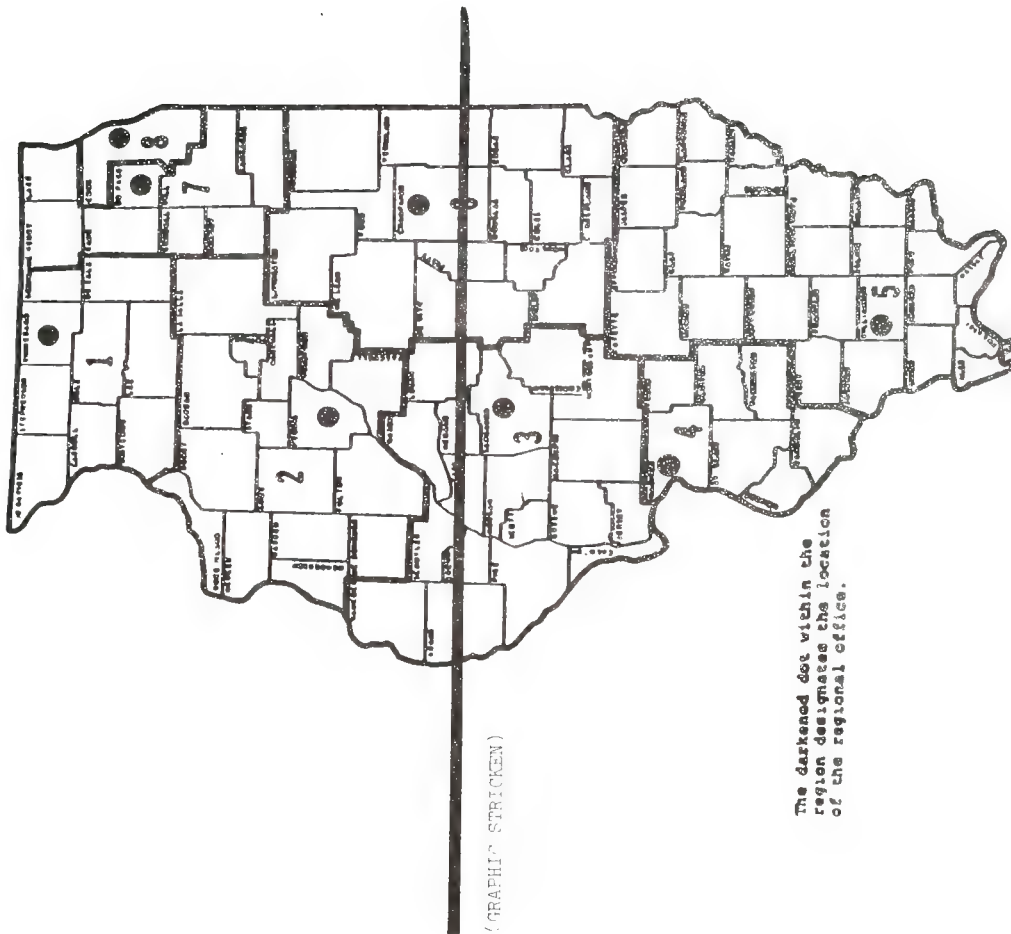
NOTICE OF PROPOSED AMENDMENTS

- b) All requests to conduct research and modifications to approved research involving the use of data that which includes patient identifying information shall be subject to a standardized review. The Department will enter into contracts for research that which require the release of patient identifying information when requests meet the following conditions:
- 1) The request for patient identifying information contains stated goals or objectives.
 - 2) The request documents the feasibility of the study design in achieving the stated goals and objectives.
 - 3) The request documents the need for the requested data to achieve the stated goals and objectives.
 - 4) The requested data can be provided within the timeframe set forth in the request.
 - 5) The request documents that the researcher has qualifications relevant to the type of research being conducted.
 - 6) The research will not duplicate other research already underway using the same data.
 - 7) Other such conditions relevant to the need for the patient identifying information and the patient's confidentiality rights.
- c) The researcher shall include an assurance that use of data is restricted to the specifications of the protocol. Any departures from the approved protocol must be submitted in writing and approved by the Director prior to initiation. No patient identifying information may be released by a researcher to a third party.
- d) The Department, by signed and reciprocating agreement, may disclose individual patient information concerning residents of another state to the individual's state of residence only if the recipient of this such information is legally required to hold the such information in confidence and provides protection from disclosure of patient identifying information equivalent to the protection afforded by the Illinois law.
- e) The patient identifying information submitted to the Department by those entities required to submit information under the Act and this Part shall be privileged and confidential and shall not be available for disclosure, inspection or copying under the Freedom of Information Act [5 ILCS 140] (~~§§11-Rev-Stat-1987--ch-1167-par-201-et-seq-7~~) or the State Records Act [5 ILCS 160] (~~§11-Rev-Stat-1987--ch-1167-par-43-4-et-seq-7~~). The However--the prohibitions stated in this Section shall not apply, however, to that information that which is made available under Section 710.40(a) and (b).
- f) The patient identifying information submitted to the Department by those entities required to submit information under the Act and this Part will be used in the course of medical study under the Article VIII, Part 21 of the Code of Civil Procedure [735 ILCS 5/Article VIII, Part 21] (~~§11-Rev-Stat-1987--ch-1107-par-8-2101-et-seq-7~~). Therefore, this information is privileged from disclosure by this the Medical Studies Article of the Code of Civil Procedure Act.

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(Source: Amended at 25 Ill. Reg. _____, effective _____)

Appendix A Regions of Illinois Department of Public Health/ADRO



The darkened dot within the region designates the location of the regional office.

710. APPENDIX A Regions of Illinois Department of Public Health and Regional ADA Centers' Service Areas -ADRD

[illegible]

(GRAPHIC UNDERScoreD)

Regional ADA Centers' Service Areas:
1. Chicago ADA Region: Department's Chicago/West Chicago Regions.
2. Downstate ADA Region: All other Department Regions.
(Source: Amended at 25 Ill. Reg. _____, effective _____.)

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Regional ADA Centers' Service Areas:

1. Chicago ADA Region: Department's Chicago/West Chicago Regions.
2. Downstate ADA Region: All other Department Regions.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Illinois Swimming Pool and Bathing Beach Code
- 2) Code Citation: 77 Ill. Adm. Code 820
- 3) Section Numbers:
820.300 Proposed Action:
Amendment
- 4) Statutory Authority: Swimming Pool and Bathing Beach Act [210 ILCS 125]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments clarify that the requirements for lifeguards specified for all swimming pools also apply to wave pools and waterslides. The amendments specify that, in addition to the requirement of 1 lifeguard per 100 bathers or 2,000 square feet of water surface area, a minimum of 3 lifeguards shall be present at wave pools.
- 6) Will this Rulemaking Replace an Emergency Rulemaking Currently in Effect?
No

7) Does this Rulemaking Contain an Automatic Repeal Date? No

8) Does this Rulemaking Contain any Incorporations by Reference? No

9) Are there any Other Proposed Amendments Pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking will not require additional expenditures by units of local government.

11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning these rules within 45 days after this issue of the *Illinois Register*, by writing to:

Paul Thompson
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217)782-2043
E-mail: rules@idph.state.il.us

These rules may have an impact on small businesses. Any small business may present their comments in writing to Paul Thompson at the above address.

12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses, Small Municipalities, and Not-For-Profit

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Corporations Affected: Municipalities, Park Districts, schools, colleges, hotels, apartments, condominiums, YMCA's, YWCA's, and similar entities are covered by these regulations but only the 3 facilities with wave pools and the approximate 130 facilities with water slides would be affected. It is believed that almost all of these facilities provide lifeguards at waterslides already.

B) Reporting, Bookkeeping or Other Procedures Required for Compliance:
This rulemaking will add no new reporting requirements.

C) Types of Professional Skills Necessary for Compliance: Competency in design, construction and operation of swimming pool facilities or bathing beaches.

13) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because: The Department did not become aware of the concern with the lifeguard requirements for wave pools until after the July 2000 regulatory agenda was filed.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER n: RECREATIONAL FACILITIES

PART 820

ILLINOIS SWIMMING POOL AND BATHING BEACH CODE

SUBPART A: GENERAL

Section
820.10
820.20

Definitions
Incorporated Materials

SUBPART B: SWIMMING POOLS AND BATHING BEACHES

Section
820.100
820.110
820.120
820.130
820.140
820.150

Permits
Water Supplies
Wastewater Disposal
Food Service Sanitation
Exemptions
Variances

SUBPART C: SWIMMING POOL DESIGN REQUIREMENTS

Section
820.200
820.210
820.220
820.230
820.240
820.250
820.260
820.270

General Design Requirements
Swimming Pool Water Treatment System
Swimming Pool Bather Preparation Facilities
Wading Pools
Spray Pools
Slides
New Equipment, Construction and Materials (Repealed)
Lazy Rivers

SUBPART D: OPERATIONAL REQUIREMENTS

Section
820.290
820.300
820.310
820.315
820.320
820.330
820.340
820.350
820.360
820.370

Applicability of Operation Requirements
Personnel
Safety Equipment
Notification
Water Quality
Swimming Pool Closing
Operation and Maintenance
Operation Reports and Routine Sampling
Patron Regulations
Swimming Suits and Towels Furnished by Management

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NOTICE OF PROPOSED AMENDMENTS

820.380 Wading Pools, Spray Pools and Therapy Pools
820.390 Refuse Disposal

SUBPART E: BATHING BEACH DESIGN AND OPERATION

Section
820.400
820.500

Minimum Sanitary Requirements for Bathing Beaches
Minimum Sanitary Requirements for Bathing Beaches (Renumbered)

APPENDIX A Illustrations

ILLUSTRATION A Slope of Pool Floor
ILLUSTRATION B Pool Walls
ILLUSTRATION C General Pool Diving Area Dimensions
ILLUSTRATION D Pools with Diving Facilities in Excess of Three Meters in Height
ILLUSTRATION E Slide Dimensions (Repealed)
ILLUSTRATION F Slide Position (Repealed)
ILLUSTRATION G Flow Meter Installation
ILLUSTRATION H Skimmer Construction
ILLUSTRATION I Installation of a Pressure Sand Filter System
ILLUSTRATION J Installation of a Pressure Diatomaceous Earth Filter System
ILLUSTRATION K Installation of a Vacuum Filter System
ILLUSTRATION L Chlorine Injection into Return Line to Pool Using Pump Discharge Pressure
ILLUSTRATION M Chlorine Injection into Return Line to Pool Using External Water Source Pressure (Repealed)
ILLUSTRATION N Chlorine Injection into Return Line to Pool Using Booster Pump

APPENDIX B Tables

TABLE A Dimensions of Swimming Pools with Diving Facilities in Excess of Three Meters in Height
TABLE B First Aid Kit Contents
TABLE C Flows Carried by Inlets
TABLE D Sizing Swimming Pool Chlorinators
TABLE E Shower, Lavatory and Toilet Fixtures Required Per Bather Load

AUTHORITY: Implementing and authorized by the Swimming Pool and Bathing Beach Act [210 ILCS 125].

SOURCE: Adopted October 22, 1974; amended and effective February 9, 1976; amended at 4 Ill. Reg. 46, p. 1283, effective November 5, 1980; amended at 5 Ill. Reg. 9593, effective September 16, 1981; rules repealed and new rules adopted at 5 Ill. Reg. 13623, effective December 2, 1981; amended and codified at 8 Ill. Reg. 12366, effective July 5, 1984; amended at 11 Ill. Reg. 12308, effective July 15, 1987; amended at 14 Ill. Reg. 786, effective January 1, 1990; amended at 20 Ill. Reg. 6971, effective May 25, 1996; emergency amendment at 21 Ill. Reg. 7536, effective May 28, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 9357, effective May 15, 1998; amended at 23 Ill. Reg.

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6079, effective May 20, 1999; emergency amendment at 23 Ill. Reg. 6551, effective May 20, 1999, for a maximum of 150 days; emergency expired October 16, 1999; amended at 24 Ill. Reg. 11271, effective July 15, 2000; amended at 25 Ill. Reg. _____, effective _____.

SUBPART D: OPERATIONAL REQUIREMENTS

Section 820.300 Personnel

a) Manager/Operator. A pool manager/operator shall be designated and shall be responsible for the operation of the swimming pool facility in compliance with this Subpart.

b) Lifeguards. Lifeguards shall be provided as specified below at all wave pools, all water slides, and all other facilities when persons under the age of 16 are allowed in the pool enclosure specified in Section 820.200(a) without supervision by a parent, guardian or other responsible person at least 16 years of age. At facilities where lifeguards are not provided, a sign shall be posted that states "This facility is not protected by lifeguards. Persons under the age of 16 must be accompanied by a parent, guardian or other responsible person at least 16 years of age. Swimming alone is not recommended."

1) Certification. Lifeguards shall be currently certified as such by the American Red Cross, the National Pool and Water Park Lifeguard Training Program, the YMCA, or another lifeguard certifying organization with an equivalent lifeguard certification program, as determined by the Department. Where the certification was issued with restrictions, the certification shall be appropriate for the duty to which the lifeguard is assigned.

2) Authority. Lifeguards shall have the authority to order any person who does not comply with the rules of the Department or those of the facility to leave the pool.

3) Identification. Lifeguards shall be dressed in swimming attire and be identified as a lifeguard. A copy of each lifeguard's certificate must be available for inspection at the facility.

4) Minimum number. At facilities where lifeguards are required, the following minimum number shall be on duty:

- A) One lifeguard per 100 bathers or 2,000 square feet of water surface area, whichever will result in the lesser number. At wave pools, in addition to satisfying the other criteria of this subsection (b)(4)(A), the number of lifeguards shall not be less than three. A lifeguard shall not simultaneously guard more than one pool unless the areas under surveillance can be continuously monitored with a clear unobstructed view and immediate assistance can be rendered if needed. At wave pools, a minimum of one lifeguard per 2000 square feet of water surface area or one lifeguard per 100 patrons, whichever results in the greater number,

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B) At water slides or drop slides, one lifeguard within 50 feet of the discharge point of the slide. Such lifeguards shall be responsible for guarding the plunge area for the slide and no other areas and shall be in voice or visual communication with the attendant or lifeguard at the top of the slide in order to facilitate safe use of the slide. One lifeguard may monitor up to three slides and no other areas if they are adjacent to and discharge to the same plunge area.

5) Lifeguards shall not be subject to duties that would distract their attention from proper observation of persons in the pool area, or that would prevent immediate assistance to persons in distress in the water.

c) Attendants. At least one attendant or lifeguard shall be on duty at the top of all water slides and drop slides when the slide is in operation in order to control the traffic of individuals using the slide. Attendants shall ensure that the slide is used in a safe and responsible manner. For multiple slides having a common starting platform, an attendant shall not be assigned to monitor more than two slides concurrently.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Numbers: Proposed Action:
 100.2590 Amendment
 100.3120 Amendment
 100.7010 Amendment
- 4) Statutory Authority: 35 ILCS 5/203(a)(2)(N); 35 ILCS 5/302; 35 ILCS 5/701
- 5) A Complete Description of the Subjects and Issues Involved: These changes are made pursuant to Public Law 106-489 that includes merchant mariners in the same category as railroad employees, motor carriers and air carriers in that only the state of residence may impose an income tax on these employees.
- 6) Will this proposed amendment replace an emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>IL Register Citation</u>
100.5040	New Section	11/03/00, 24 Ill. Reg. 16218
100.5250	Amendment	11/13/00, 24 Ill. Reg. 16555
100.9000	Amendment	11/13/00, 24 Ill. Reg. 16555
100.9100	Amendment	11/13/00, 24 Ill. Reg. 16555
100.9710	New Section	11/17/00, 24 Ill. Reg. 16957
100.5130	Amendment	12/01/00, 24 Ill. Reg. 17496
100.2165	Amendment	12/08/00, 24 Ill. Reg. 17713

- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Heidi Scott
 Associate Counsel - Income Tax
 Illinois Department of Revenue
 Legal Services Office

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

101 West Jefferson
 Springfield, Illinois 62794
 Phone: (217) 782-7055

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Merchant mariners may be affected in that they shall not withhold state income taxes for applicable employees unless employees voluntarily consent to the withholding of their state income taxes.

B) Reporting, bookkeeping or other procedures required for compliance:
 None

C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: January 2001

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 100
INCOME TAX

SUBPART A: TAX IMPOSED

Section	
100.2000	Introduction
100.2050	Net Income (IITA Section 202)

SUBPART B: CREDITS

Section	
100.2100	Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))
100.2101	Replacement Tax Investment Credit (IITA 201(e))
100.2110	Investment Credit; Enterprise Zone (IITA 201(f))
100.2120	Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))
100.2130	Investment Credit; High Impact Business (IITA 201(h))
100.2140	Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150	Training Expense Credit (IITA 201(j))
100.2160	Research and Development Credit (IITA 201(k))
100.2165	Education Expense Credit (IITA 201(m))
100.2170	Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2180	Credit for Residential Real Property Taxes (IITA 208)
100.2195	Dependent Care Assistance Program Tax Credit (IITA 210)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS
OCCURRING PRIOR TO DECEMBER 31, 1986

Section	
100.2200	Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) - Scope
100.2210	Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) - Definitions
100.2220	Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) - Current Net Operating Losses; Offsets Between Members
100.2230	Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) - Carrybacks and Carryforwards

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100.2240	Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) - Effect of Combined Net Operating Loss in Computing Illinois Base Income
100.2250	Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) - Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS OCCURRING ON OR AFTER
DECEMBER 31, 1986

Section	
100.2300	Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986
100.2310	Computation of the Illinois Net Loss Deduction
100.2320	Determination of the Amount of Illinois Net Loss Carryovers
100.2330	Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring on or After December 31, 1986
100.2340	Illinois Net Loss Deductions of Corporations That are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
100.2350	Illinois Net Loss Deductions of Corporations that are Members of a Unitary Business Group: Changes in Membership

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS,
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AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].	
SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49 p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537,	

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effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 585, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. _____, effective _____.

SUBPART F: BASE INCOME OF INDIVIDUALS

Section 100.2590 Taxation of Certain Employees of Railroads, Motor

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Carriers, Air Carriers and Water Carriers

a) Federal law affects the authority of the State of Illinois to subject certain employees of railroads, motor carriers, merchant mariners, and air carriers to Illinois income taxation. By virtue of the provisions of federal law quoted in subsections (a)(1) through (3) below, compensation that would otherwise be subject to Illinois income taxation and withholding by virtue of IITA Sections 302(a) and 304(a)(2)(B) is subtracted from adjusted gross income in determining Illinois base income pursuant to IITA Section 203(a)(2)(N) and is not subject to Illinois income tax withholding. This subtraction is taken on form IL-1040 on the line entitled "Other subtractions." The statutory basis of the subtraction under Illinois law is IITA Section 203(a)(2)(N) which provides a subtraction from adjusted gross income for an amount equal to all amounts included in such total which are exempt from taxation by this State... By reason of the... statutes of the United States.

1) 49 ~~USCA 8-506-A- 11502(a) 11504(a)~~ states that no part of the compensation paid by a rail carrier subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of this title to an employee who performs regularly assigned duties as such an employee on a railroad in more than one state shall be subject to the income tax laws of any state or subdivision of that state, other than the state or subdivision thereof of the employee's residence.

2) 49 ~~USCA 8-506-A- 14503(a)(1) 11504(b)(1)~~ states that no part of the compensation paid by a motor carrier providing transportation subject to the jurisdiction of the Commission under subchapter I of chapter 135 of this title or by a motor private carrier to an employee who performs regularly assigned duties in 2 or more states as such an employee with respect to a motor vehicle shall be subject to the income tax laws of any state or subdivision of that state, other than the state or subdivision thereof of the employee's residence.

3) 46 ~~USCA 11108~~ states that no part of the compensation paid by a merchant mariner to an employee who performs his regularly assigned duties in more than one state shall be subject to the income tax laws of any state or subdivision of that state, other than the state or subdivision thereof of the employee's residence.

4) 49 ~~USCA 8-506-A- 40116(f)(2) 1533(a)~~ states that no part of the compensation paid by an air carrier to an employee who performs his regularly assigned duties as such an employee on an aircraft in more than one state, shall be subject to the income tax laws of any state or subdivision thereof other than the state or subdivision thereof of such employee's residence and the state or subdivision thereof in which such employee earns more

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than 50 ~~per-centum~~ of the compensation paid by the carrier to such employee.

- b) 49 ~~USCA 8-5-E-A-~~ 11108 provides that the State of Illinois may not require the withholding of Illinois income taxes from certain employees of water carriers and merchant mariners. 49 ~~USCA 8-5-E-A-~~ 11108 states that wages due or accruing to a master or seaman on a vessel in the foreign, coastwise, intercoastal, interstate, or noncontiguous trade or an individual employed on a fishing vessel or any fish processing vessel may not be withheld under the tax laws of a state or a political subdivision of a state. However, this Section does not prohibit withholding wages of a seaman on a vessel in the coastwise trade between ports in the same state if the withholding is under a voluntary agreement between the seaman and employer of the seaman. However, this provision of federal law does not affect the liability of these employees for Illinois income taxes, nor does it affect the obligation of such employees to make payments of estimated income taxes as required by IITA Section 803. The provision of federal law merely affects the authority of the State of Illinois to require withholding by employers of such employees.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

SUBPART J: COMPENSATION PAID TO NONRESIDENTS

Section 100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

- a) In general
- 1) In order for items of compensation paid to an individual who is a nonresident of Illinois at the time of payment to be allocated to Illinois, such compensation must constitute "compensation paid in this State". If the test is met, then all items of such compensation, and all items of deduction directly allocable thereto, are allocated to Illinois under IITA Section 302(a) (except items allocated under IITA Section 301(b)(2), as to which see subsection (c) below). Compensation paid to a nonresident, which is allocated to Illinois, enters into the computation of such individual's net income under IITA Section 202 and is generally subject to withholding under IITA Section 701 (see Sections 100.7000, 100.7010 and 100.7020). The tests for determining whether compensation is paid in Illinois appear in IITA Section 304(a)(2)(B) and are substantially the same as those used to define "employment" in the Illinois Unemployment Compensation Act [820 ILCS 405] (and similar unemployment compensation acts of other states). Compensation is paid in Illinois if:

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- A) The individual's service is localized in Illinois because it is performed entirely within Illinois;
- B) The individual's service is localized in Illinois although it is performed both within and without Illinois, because the service performed without Illinois is incidental to the individual's service performed within Illinois; or
- C) The individual's service is not localized in any state but some of the service is performed within Illinois and either:
- i) the base of operations, or if there is no base of operations, the place from which the service is directed or controlled is within Illinois, or
 - ii) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in Illinois.
- 2) The foregoing rules are to be applied in such manner that if they were in effect in other states an item of compensation would constitute compensation "paid in" only one state. Thus, if an item would, under these rules, constitute compensation paid in a state other than Illinois because the individual's service was localized in such other state under subsection (a)(1)(B) above, it could not also be compensation paid in Illinois. Pursuant to 50 USC 8-9-E-574, compensation for military or naval service paid to a nonresident does not constitute "compensation paid in" Illinois even though it meets the tests set forth in subsection (a)(1) above. For further discussion of these tests, see Section 100.7010(a), (d), (e) and (f), dealing with withholding.
- 3) Personal services under personal service contracts for sports performance
- A) For purposes of subsection (a)(1)(A) above, beginning with taxable years ending on or after December 31, 1992, for all persons who are members of professional sports teams that are residents of states that impose a comparable tax liability on all persons who are members of professional sports teams that are residents of this State...in the case of persons who perform personal services under personal service contracts for sports performance, services by that person at a sporting event taking place in Illinois shall be deemed to be a performance entirely within this State. (IITA Section 304(a)(2)(B)) The amount of income constituting compensation paid in this State to such person shall be determined by multiplying the person's total compensation for performing such personal services by a fraction, the denominator of which contains the total number of duty days and the numerator of which is the

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number of duty days in Illinois during the taxable year.

- B) The income of persons who engage in sports performance in Illinois, but do not perform personal services under personal services contracts of employment, remains apportionable to Illinois. Such income is business income, as defined by IITA Section 1501(a)(1) and Section 100.3010(a) of this Part. Also see IITA Section 304(a) and Section 100.3310 of this Part.

- b) Compensation paid for past service

1) A federal law, P.L. 104-95 (4 USC 114), which applies to amounts received after December 31, 1995, limits the power of states to impose income taxation on certain nonresident pension income. This limitation also impacts income received by a nonresident in the form of distributions from many deferred compensation plans. The allocation of distributions to nonresidents from deferred compensation plans which are not governed by that law and which are potentially income taxable in this State is governed by this subsection (b)(1). Where compensation is paid to a nonresident for past service, such compensation will, for the purpose of determining whether and to what extent such compensation is "paid in" Illinois and is allocated to Illinois under IITA Section 302(a), be presumed to have been earned ratably over the employee's last 5 years of service with the employer (or any predecessor or successor of the employer or a parent or subsidiary corporation of the employer), in the absence of clear and convincing evidence that such compensation is properly attributable to a different period of employment or that it was not earned ratably over the appropriate period of employment. Compensation earned in each past year will be deemed compensation paid in Illinois if the individual's service in such year met the tests set forth in subsection (a) above. Compensation paid for past service includes amounts paid under deferred compensation agreements where the amount of compensation is unrelated to the amount of service being currently rendered. Amounts paid to nonresidents under deferred compensation agreements may be allocated to Illinois under IITA Section 302(a) in accordance with this paragraph notwithstanding the fact that amounts paid to nonresidents under such agreements will be deemed not to be compensation paid in Illinois for purposes of IITA Section 701 and will not be subject to withholding (see Section 100.7010(g)).

- 2) The standards detailed in the previous subsection may be illustrated by the following examples:

A) A is a union member employed by B corporation as a factory worker. During the years 1965-1968, A was employed in B's factory in Illinois; in 1969, A worked in B's factory in State X. In 1970, as a result of union labor contract negotiations, A received a lump-sum payment of

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\$500 in lieu of a retroactive wage increase. A is at all times a resident of State X. Unless A establishes, by clear and convincing evidence, facts to support a different result, \$100 is deemed to have been earned in each of the 5 years 1965-1969. Further, \$400 is deemed to have been earned by service localized in Illinois and \$100 by service localized in State X (see subsection (a) above). Therefore, \$400 is allocable to Illinois under IITA Section 302(a).

- B) The facts are the same as in the previous example except that A is able to establish that the \$500 constituted a wage increase retroactive to July 1, 1969. In such case, no part of the \$500 is allocable to Illinois, since it was earned by service in 1969 localized in State X.

- C) C is a corporate executive. On January 1, 1965, C entered into an agreement with D corporation under which he was to be employed by D in an executive capacity for a period of 5 years. Under the contract C is entitled to a stated annual salary and to additional compensation of \$10,000 for each year, the additional compensation to be credited to a bookkeeping reserve account and deferred, accumulated and paid in annual installments of \$5,000 on C's retirement beginning January 1, 1970. In the event of C's death prior to exhaustion of the account, the balance is to be paid to C's personal representative. C is required to render consultative services to D when called upon after December 31, 1969. During 1970, C is paid \$5,000 while a resident of Florida. The \$5,000 is deemed to have been earned at the rate of \$1,000 in each of the years 1965-1969, since the amount paid is unrelated to C's current consultative services. Whether the \$1,000 earned in each such year is allocable to Illinois under IITA Section 302(a) must be determined by applying the tests set forth in subsection (a) above to each such year.

- c) Exceptions to general allocation rules

1) While "compensation" may include items of income taken into account by a nonresident employee under the provisions of 26 USC 8-5-e7 401 through 424, such as, for example, amounts received by a beneficiary of an employees' trust (taxable to the employee under 26 USC 8-5-e7 402, whether the trust is exempt or non-exempt from federal income tax), or income resulting from a disqualifying disposition of stock acquired pursuant to the exercise of a qualified stock option (taxable to the employee under 26 USC 8-5-e7 421(b) above), such compensation is not allocated under IITA Section 302(a). Such compensation is allocated under the rules of IITA Section 301(b)(2)(A), i.e., is not allocated to Illinois, whereas

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compensation which is allocated pursuant to IITA Section 302(a) is allocated to Illinois, if "paid in" this State (see subsections (a) and (b) above). Consequently, a nonresident claiming that compensation which would otherwise constitute compensation paid in Illinois should not be allocated to Illinois under IITA Section 301(b)(2)(A) must establish that such compensation was properly taken into account by such individual under the provisions of 26 USC 8-5-e-401 through 424.

2) Reciprocal exemptions

In any case in which the Director has entered into an agreement with the taxing authorities of another state which imposes a tax on or measured by income to provide that compensation paid in such state to residents of Illinois shall be exempt from such tax, compensation paid in Illinois to residents of such state will not be allocated to Illinois.

3) Federal Law. Federal law affects the authority of the State of Illinois to subject certain employees of railroads, motor carriers, merchant mariners, and air carriers to Illinois income taxation, even though in the absence of specific federal provisions those employees would be subject to Illinois taxation by virtue of IITA Section 302(a).

A) Railroad employees. 49 USCA 8-5-e-A-11502(a) 11504(f) provides that no part of the compensation paid by a rail carrier subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of the chapter 105 of Title 49, to an employee who performs regularly assigned duties in more than one state shall be subject to the income tax laws of any state or subdivision of that state, other than the state or subdivision thereof of the employee's residence.

B) Motor carrier employees. 49 USCA 8-5-e-A-14503(a)(1) 11504(b)(1) states that no part of the compensation paid by a motor carrier subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 135 105 of Title 49, or by a motor private carrier, to an employee who performs regularly assigned duties in 2 or more states as such an employee with respect to a motor vehicle shall be subject to the income tax laws of any state or subdivision of that state, other than the state or subdivision thereof of the employee's residence.

C) Merchant mariner employees. 46 USCA 11108 provides that no part of the compensation paid by a merchant mariner to an employee who performs his regularly assigned duties in more than one state shall be subject to the income tax laws of any state or subdivision of that state, other than the state or subdivision of the employee's residence.

DE) Air carrier employees. 49 USCA 8-5-e-A-40116(f)(2) 11533(f) states that no part of the compensation paid by an air

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carrier to an employee who performs his regularly assigned duties as such an employee on an aircraft in more than one state shall be subject to the income tax laws or any state or subdivision thereof other than the state or subdivision thereof of such employee's residence and the state or subdivision thereof in which such employee earns more than 50% of the compensation paid by the carrier to such employee.

4) The standards set forth in this Section may be illustrated by the following examples:

A) A is a factory worker for B corporation which is located in Illinois. A resides in State X. When A reaches retirement age, he begins receiving a pension from the exempt trust under B's qualified pension plan. For federal income tax purposes, A properly takes his payments into account under the provisions of 26 USC 8-5-e-402(a). Accordingly, under IITA Section 301(c)(2)(A), A's payments are not allocated to Illinois.

B) The facts are the same as in the previous example except that B corporation does not fund its employees' pension benefits through the creation of a trust or the purchase of annuities, but pays retired employees each year out of corporate funds. For federal income tax purposes, A is required to take his payments into account under 26 USC 8-5-e-61(a), rather than under 26 USC 8-5-e-401 through 424. Accordingly, allocation of A's pension payments is governed by IITA Section 302(a) above (see subsections (a) and (b) of this Section).

C) A is a locomotive engineer employed by Interstate railway. Interstate operates a rail yard in East St. Louis, Illinois. Interstate also operates out of St. Louis, Missouri, where it has a rail yard, as well as its administrative and payroll offices. A lives in St. Louis, Missouri. A is assigned to the East St. Louis rail yard and primarily reports to the East St. Louis rail yard of Interstate and drives locomotives for Interstate on trips that go throughout the United States. However, on occasion, A is required to report to the St. Louis, Missouri yard of Interstate and drive locomotives on trips that originate from St. Louis, Missouri. Pursuant to 49 USCA 8-5-e-A-11502(a) 11504(f), Interstate may only withhold, and A is only subject to, the Missouri personal income tax.

D) A is an airline pilot for World-Wide Airlines. World-Wide provides passenger and freight service to various destinations throughout the United States from Lambert Field in St. Louis, Missouri, as well as from the municipal airport in Alton, Illinois. A lives in St. Louis, Missouri, but A reports to and flies out of the World-Wide terminal in

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Alton, Illinois. A primarily flies to destinations outside of Illinois. Less than 50% of A's compensation (as determined by flight time in Illinois versus flight time everywhere) (see 49 USCA 48-5-e-7-A-1512(b)) is earned within Illinois. Therefore, by virtue of 49 USCA 48-5-e-7-A-1513(a), A is only subject to Missouri income taxation on his compensation from World-Wide.

E) The facts are the same as in the previous example, except that A pilots commuter planes between Alton and Chicago, Illinois. In this situation, A will be subject to Illinois income taxation by virtue of the fact that A earns more than 50% of his compensation within the State of Illinois.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

Section 100.7010 Compensation Paid in this State. (IITA Section 701)

a) General rules

1) Withholding is required with respect to "compensation paid in this State" - but see Section 100.7090 with regard to reciprocal withholding exemption agreements for employees residing in certain states. Illinois will recognize reciprocal withholding exemption agreements for those individuals subject to withholding by virtue of P.A. 87-880, to the extent that the state of residence of the team by which they are employed recognizes the reciprocal withholding exemption agreement with respect to individuals employed by teams with Illinois residence. The entire amount of such compensation is subject to withholding if withholding is required under Section 100.7000. The tests for determining whether compensation is paid in this State appear in IITA Section 304(a)(2)(B) and are substantially the same as those used to define "employment" in the Illinois Unemployment Compensation Act [820 ILCS 405] (and similar unemployment compensation acts of other states). Compensation is paid in this State if:

- A) The individual's service is localized in this State because it is performed entirely within this State;
- B) The individual's service is localized in this State although it is performed both within and without this State, because the service performed without this State is incidental to the individual's service performed within this State; or
- C) The individual's service is not localized in any state but some of the service is performed within this State

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and either; the base of operations, or if there is not a base of operations, the place from which the service is directed or controlled is within this State, or the base of operations of the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this State.

2B) For purposes of subsection (a)(1)(A), beginning with taxable years ending on or after December 31, 1992, for all persons who are members of professional sports teams that are residents of states that impose a comparable tax liability on all persons who are members of professional sports teams that are residents of this State, . . . in the case of persons who perform personal services under personal service contracts for sports performances, services by that person at a sporting event taking place in Illinois shall be deemed to be a performance entirely within this State. (IITA Section 304(a)(2)(B))

32) The foregoing rules are to be applied in such manner that, if they were in effect in other states, an item of compensation would constitute "compensation paid in" only one state. Thus, if an item would, under these rules, constitute compensation paid in a state other than Illinois because the individual's service was localized in such other state under the test of subsection (a)(1)(A) above, it could not also be compensation paid in Illinois.

b) Place of residence of employee

1) Except in the limited circumstances referred to in subsection (a)(1)(C) above and subsections (b)(2) and (3) below, the place of residence of any employee is irrelevant to the determination of "compensation paid in this State", and is, therefore, irrelevant to the determination of whether withholding is required with respect to such employee. However, compensation paid to residents of a state with which Illinois has entered into a reciprocal agreement (see Section 100.7090) is exempt from withholding.

2) Federal law affects the authority of the State of Illinois to subject certain employees of railroads, motor carriers, merchant mariners, and air carriers to Illinois income taxation and withholding. See Section 100.2590 which provides that certain employees of rail carriers, motor carriers, merchant mariners, and air carriers may only be subject to the income tax laws of any state or subdivision of that state of the employee's residence.

3) Federal law also affects the authority of the State to withhold income tax from employees of certain water carriers and merchant mariners. 49 USCA 11108 states that wages due or accruing to a master or seaman on a vessel in the foreign, coastwise,

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intercoastal, interstate, or noncontiguous trade or an individual employed on a fishing vessel or any fish processing vessel may not be withheld under the tax laws of a state or a political subdivision of a state. However, this Section does not prohibit withholding wages of a seaman on a vessel in the coastwise trade between ports in the same state if the withholding is under a voluntary agreement between the seaman and employer of the seaman. It should be noted that this provision affects only the authority of this state to have Illinois income tax withheld from wages of these employees. It does not affect the obligation of these employees to pay Illinois income taxes or to make payments of estimated income taxes as required under IITA Section 803.

c) Localization tests

1) If compensation is paid in this State because the service is localized here under either of the tests set forth in subsections (a)(1)(A) and (B) above, no other factors need be considered. In such cases, the place of the base of operations, the place from which the service is directed or controlled, and the place of the individual's residence are all irrelevant. (But see Section 100.7090.)

2) In determining whether an individual's service performed without this State is incidental to his service performed within this State for purposes of the test set forth in subsection (a)(1)(B) above, the term "incidental" means any service which is necessary to or supportive of the primary service performed by the employee or which is temporary or transitory in nature or consists of isolated transactions. The incidental service referred to above may or may not be similar to the individual's normal occupation so long as it is performed within the same employer-employee relationship. That is, an individual who normally performs all of his service in this State may be sent by his employer to another state to perform service which is totally different in nature from his usual work or he may be sent to do similar work. So long as such service is temporary or consists merely of isolated transactions, it will be considered to be incidental to his service performed within this State, and his entire compensation will be subject to withholding.

3) In some cases, it may be difficult to determine whether service performed in another state is incidental to service performed within this State. In any such case, the facts (including any contract of employment) should be carefully considered. In many instances, the contract of employment will provide a definite territorial assignment which will be prima facie evidence that the service is localized within such territory. However, the presence or absence of a contract of employment is but one fact to be considered. In every

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case, the ultimate determination to be made is whether the individual's service was intended to be and was in fact principally performed within this State and whether any service which was performed in another state was of a temporary or transitory nature or arose out of special circumstances at infrequent intervals. The amount of time spent or the amount of service performed without this State should not be regarded as decisive, in itself, in determining whether such service is incidental to service performed within this State. For example, an individual normally performing service within this State might be sent on a special assignment to another state for a period of months. The service in the other state would nevertheless be incidental to service within this State if such special assignment were an isolated transaction.

4) This Section may be illustrated by the following examples:

A) A is a resident of State X and is a salesman for the B corporation, located in State Y. A's base of operations is his home in State X and his service is controlled from State Y. All of A's customers are located in Illinois. A's compensation is subject to withholding even though he is a nonresident with a State X base of operations, who is directed from State Y, because all of his service is performed in Illinois.

B) A is a resident of State X and a salesman for the B Corporation, located in State X. A's territory covers the northern part of Illinois. Sporadically, A is requested by B corporation to call on particular customers who are located in State X. The compensation for service which A performs in Illinois and State X is subject to withholding because the service performed in State X is incidental to the service performed in Illinois, since it consists of isolated transactions.

C) The facts are the same as in the previous example except that A's regular territory covers several counties in Illinois and one or two towns in State X. A goes to the State X towns on a regular basis even though more than 95% of his time and sales are with reference to his Illinois territory. The compensation for service which A performs in Illinois and State X is not localized in Illinois within the meaning of subsection (a)(2) above because the service performed in State X is regular and permanent in nature and is not necessary to or supportive of sales made in Illinois. Whether withholding is required must therefore be determined under subsection (a)(1)(C) above (see subsections (d) and (e) below).

D) A works for B construction company in Chicago. Occasionally the company obtains a construction job in

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State X which may last from one to several weeks. A is sent by the company to supervise the construction jobs in State X. The compensation for the service A performs in Illinois and State X is subject to withholding because the service performed in State X, being temporary in nature, is incidental to the service which he performs in Illinois.

E) A is a resident of Illinois and a buyer for a department store located in State X. Regular buying trips by A to Illinois are incidental to the service performed in State X because they are necessary to and supportive of A's primary duties which are localized in State X and not in Illinois. Compensation for the services which A performs in Illinois and State X is not subject to withholding, notwithstanding that A being a resident, is taxable in Illinois on such compensation under IITA Sections 201 and 301(a).

d) Base of operations

1) The localization tests are not applicable where an individual's employment normally or continually includes service within this State and also services without the State which are not "incidental" to the services performed within this State. In such case, if the individual's base of operations is within this State, his entire compensation will be subject to withholding, but if his base of operations is without this State, none of his compensation will be subject to withholding.

2) The term "base of operations" refers to the place or fixed center from which the individual works. An individual's base of operations may be his business office (which may be maintained in his home), or his contract of employment may specify a place at which the employee is to receive his directions and instructions. In the absence of more controlling factors, an individual's base of operations may be the place to which he has his business mail, supplies, and equipment sent or the place where he maintains his business records.

3) This Section may be illustrated by the following examples:

A) A is a salesman for the B corporation located in Chicago. His territory includes Illinois, State X and State Y. A uses the corporation office in Chicago as a base of operations. The compensation for service performed by A is subject to withholding because the service is not localized in any of the three States in which it is performed, but part of the service is performed in Illinois and A's base of operations is in Illinois.

B) A is a salesman for the B corporation located in

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Chicago. A lives in State X and his territory includes State X and part of Cook County, Illinois. A starts his sales calls from and returns to his home daily. He keeps a catalogue and copies of correspondence from customers at his home, and writes his sales reports there. About once a week he reports to B's sales office in Chicago for consultation with and directions from the sales manager. Communications from customers to A are addressed to the Chicago sales office. A's letters to customers are on letterheads bearing the Chicago sales office address and are sometimes typed by A at home and sometimes dictated by him to a stenographer when he is in the Chicago sales office. Correspondence to A and his paychecks are sometimes picked up by A in Chicago and otherwise are forwarded by the sales office to his home. The duties which A performs at home are sufficient to make his home his base of operations. A's compensation is therefore not subject to withholding because his base of operations is in State X, and part of his service is performed in that State.

C) A, a resident of Illinois, sells products in Illinois, State X and State Y for B corporation, which is located in State Z. A operates from his home, where he receives instructions from his employer, communications from his customers, etc. Once a year, A goes to State Z for a 10 day sales meeting. All of A's compensation is subject to withholding; the service is not localized in any state but part of the service is performed in Illinois and A's base of operations is his home in Illinois.

D) A works for a company whose home office is in State X. He is a regional director working out of a branch office in Illinois. He works mostly in Illinois but spends considerable time in State X. A's base of operations is the branch office in Illinois. Since he performs some service in Illinois and his base of operations is in Illinois, it is immaterial that his source of direction and control is in State X. All of A's compensation for service is subject to withholding.

E) A, a resident of Illinois, is a salesman for the B corporation, which has its main office in State X. A works out of the main office and his territory is divided equally between State X and Illinois. A's compensation is not subject to withholding because his base of operations is in State X, and part of his service is performed in that State. A, an airplane pilot for B airline, lives in State X and regularly flies between Chicago and cities in other states.

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A does not have an office but reports to a flight operations office in Chicago which determines flight assignments for A and other pilots reporting to that office. A receives his paycheck and other company mail at the flight operations office in Chicago. A's base of operations is Illinois. He performs some service in Illinois and it is not "incidental" to service performed elsewhere. All of A's compensation for service is subject to withholding.

e) Place of direction or control

1) The permanent place from which the employee's service is directed or controlled is relevant in determining whether wages are subject to withholding if the localization tests are not applicable and it is impossible to determine the base of operation for such individual. In such a case, if both the place from which the individual's service is directed or controlled is within this State, and some of the service is performed within this State, then his entire compensation will be subject to withholding, but if not, none of his compensation will be subject to withholding. For example, a salesman's territory may be so indefinite and so widespread that he will not retain any fixed business office or address but will receive his orders or instructions by mail or wire wherever he may happen to be. In such case, the location of the permanent place from which direction and control is exercised must be determined.

2) The previous subsection may be illustrated by the following examples:

- A) A, a resident of State X, is employed as a salesman by B, a corporation with its main office in State Y. B has a permanent branch office and sales supervisor in Cairo, Illinois. A was hired by the branch office and sells merchandise for B in Illinois and other neighboring states as directed by the branch office in telephone calls but he has no place which he uses as a base of operations. All of the compensation for service performed by A for B is subject to withholding because A's service is not localized in any of the states in which he operates and he has no base of operations, but part of his service is performed in Illinois and the place from which the service is directed is in Illinois.
- B) A is a salesman residing in State X, who works for a concern whose factory and selling office is in Chicago, Illinois. A's territory covers five states, including Illinois. He does not report, start from or return to the Chicago office or from his residence in State X. State X is the territory of another salesman. A does not have a base of operations but would be subject to

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withholding since part of his service is performed in Illinois and the place from which the service is directed is in Illinois.

C) A, a contractor whose main office is in Illinois, is regularly engaged in road construction work in Illinois and State X. All operations are under direction of a general superintendent whose permanent office is in Illinois. Work in each state is directly supervised by field supervisors working from temporary field offices located in each of the two states. Each field supervisor has the power to hire and fire personnel; however, all requests for manpower must be cleared through the Illinois office. Employees report for work at the field offices. Time cards are sent weekly to the main office in Illinois where the payrolls are prepared. A is hired by a field supervisor in State X; he regularly performs service in both Illinois and State X. In such case, neither the localization nor the base-of-operations test would apply, but A's compensation would be subject to withholding. Part of A's service is performed in Illinois and his service is regarded as controlled from Illinois because the permanent office from which basic direction and control emanates is the Illinois office.

f) When residence is important

1) Residence is a factor in determining whether compensation paid to an individual is subject to withholding only when his service is not localized within some state; he performs no service in the state in which he has his base of operations (if he has a base of operations); and he performs no service in the state from which his service is directed or controlled. In such case, if the individual is a resident of this State, and some of his service is performed within this State, his entire compensation will be subject to withholding. However, compensation paid to residents of a state with which Illinois has entered into a reciprocal agreement (see Section 100.7090) is exempt from withholding.

2) Residence is also important in determining the Illinois income tax obligations of certain employees of railroads, motor carriers and air carriers (see Section 100.2590 of this Part and subsection (b) above).

3) Subsection (f)(1) above may be illustrated by the following example:

A is a salesman employed by the B company located in State X. His services are directed and controlled from the State X office and he has no base of operations. A lives in Illinois but his territory includes State Y and State Z as well as Illinois. All of A's wages are subject to withholding

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- 1) Heading of the Part: Property Tax Code
- 2) Code Citation: 86 Ill. Adm. Code 110
- 3) Section Numbers: 110.113
Proposed Action: New Section
- 4) Statutory Authority: 35 ILCS 200/10-350, as added by Public Act 91-834 (effective January 1, 2001)
- 5) A Complete Description of the Subjects and Issues Involved: Public Act 91-834 authorizes a new preferential assessment for property owned and used by a qualified fraternal organization chartered by the state of Illinois prior to 1900 or its subordinate organization or entity beginning January 1, 2001. The proposed language provides guidance to applicants and local officials regarding the application process and the submission and verification of required documentation to determine eligibility.
- 6) Will this proposed amendment replace an emergency amendment currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Karen Alice Kloppe
Associate Counsel - Property Tax
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
(217) 782-6996
- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rule will affect any qualified fraternal organization chartered by the State of Illinois prior to 1900, or its

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- because no part of his service is performed in the state (State X) in which the place from which his services are directed is located, but part of his service is performed in Illinois and his residence is in Illinois.
- g) Deferred compensation
 - 1) Under certain contractual unfunded deferred compensation agreements, payments are made by an employer to an employee for service rendered at an earlier date. In many such agreements, the employee receiving deferred compensation payments is not required to render any current service whatsoever, whereas in others he may be required to hold himself available to render advisory and consultative service, if called upon to do so, and to refrain from competition, but in either case, the amount of compensation is unrelated to any service being currently rendered. Payments made under any such deferred compensation agreement will be deemed to meet the tests set forth in subsection (a) above for compensation paid in Illinois if paid to the individual while a resident of this State. Conversely, payments made under such an agreement will be deemed not to be compensation paid in this State and will not be subject to withholding if paid to the individual while a nonresident. Amounts paid to nonresidents under deferred compensation agreements may be allocated to Illinois under IITA Section 302(a) in accordance with Section 100.3120(b)(1) notwithstanding the fact that such amounts will be deemed not to be compensation paid in Illinois for purposes of IITA Section 701 and will not be subject to withholding.
 - 2) Subsection (g)(1) above may be illustrated by the following example:
A is a corporate executive. On January 1, 1965, A entered into an agreement with B corporation under which he was to be employed by B in an executive capacity for a period of 5 years. Under the contract A is entitled to a stated annual salary and to additional compensation to be credited to a bookkeeping reserve account* and deferred, accumulated and paid in annual installments of \$5,000 on A's retirement beginning January 1, 1970. In the event of A's death prior to exhaustion of the account, the balance is to be paid to A's personal representative. A is not required to render any service to B after December 31, 1969. During 1970, A is paid \$5,000 while a resident of Illinois. This amount will be subject to withholding, because A's prior service will be deemed to have met one of the tests for compensation paid in Illinois.
- (Source: Amended at 25 Ill. Reg. _____, effective _____)

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subordinate organizations or entities, that elect to freeze the assessed value of the real property it owns and uses.

B) Reporting, bookkeeping or other procedures required for compliance: Fraternal organizations must annually submit a notarized application form to the Chief County Assessment Officer in the county in which the property is located by the statutorily prescribed deadlines.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because: The need for this rule was determined after the Department submitted its last Regulatory Agenda.

The full text of the Proposed Amendments begins on the next page:

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 110
PROPERTY TAX CODE

Section	Railroads
110.101	Non-carrier Real Estate of Railroads
110.105	Procedures for Assessment of Pollution Control Facilities and Low Sulphur Dioxide Emission Coal Fueled Devices
110.110	Procedures for Assessment of Section 515 Low-income Housing Projects
110.112	Fraternal Organization Assessment Freeze
110.113	Non-Homestead Exemption Proceedings
110.115	Oil Right Lessees and Producers
110.120	Reports to be Filed with the Department
110.125	Hearings and Records of Chief County Assessment Officers
110.130	Review of Assessments - Counties of 3,000,000 or More
110.135	Board of Review Procedures and Records - Counties of Less than 3,000,000
110.140	Farmland Factor Review Procedures (Repealed)
110.141	Practice and Procedure for Hearings on Property Tax Matters Before the Illinois Department of Revenue
110.145	Records Reproduction
110.150	Course and Examination Requirements for Board of Review Members
110.155	Multi-township Assessment Districts
110.160	Township and Multi-township Assessor Qualifications
110.162	Farmland Assessment Review Procedures
110.165	Assessors' Bonus
110.170	Equalization by Chief County Assessment Officers in Counties with Fewer Than 3,000,000 Inhabitants
110.175	Supervisor of Assessments Examination
110.180	Property Tax Extension Limitation
110.190	Property Tax Extension Limitation Law Notification and Determination Requirements After Referendum Under Section 18-213 or 18-214 of the Property Tax Code

ILLUSTRATION A State of Illinois Board of Review Course and Exam Requirements

AUTHORITY: Implementing the Property Tax Code [35 ILCS 200] and authorized by Section 2505-625 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-625].

SOURCE: Adopted June 1, 1940; amended at 5 Ill. Reg. 2999, effective March 11, 1981; amended at 5 Ill. Reg. 5888, effective May 26, 1981; amended at 6 Ill. Reg. 9707, effective July 27, 1982; amended at 6 Ill. Reg. 14564, effective November 5, 1982; codified at 7 Ill. Reg. 5886; amended at 8 Ill. Reg. 24285,

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effective December 5, 1984; amended at 9 Ill. Reg. 159, effective December 26, 1984; amended at 9 Ill. Reg. 12022, effective July 24, 1985; amended at 10 Ill. Reg. 11284, effective June 16, 1986; amended at 10 Ill. Reg. 15125, effective September 2, 1986; amended at 11 Ill. Reg. 19675, effective November 23, 1987; amended at 11 Ill. Reg. 20972, effective December 11, 1987; amended at 12 Ill. Reg. 14346, effective August 29, 1988; amended at 13 Ill. Reg. 6803, effective April 12, 1989; amended at 13 Ill. Reg. 7469, effective May 2, 1989; amended at 15 Ill. Reg. 3522, effective February 21, 1991; emergency rule added at 15 Ill. Reg. 14297, effective October 1, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 2624, effective February 4, 1992; emergency amendment at 17 Ill. Reg. 22584, effective January 1, 1994, for a maximum of 150 days; emergency expired May 30, 1994; amended at 18 Ill. Reg. 15618, effective October 11, 1994; emergency amendment at 19 Ill. Reg. 2476, effective February 17, 1995, for a maximum of 150 days; emergency expired July 16, 1995; emergency amendment at 19 Ill. Reg. 3555, effective March 1, 1995, for a maximum of 150 days; emergency expired July 28, 1995; emergency amendment at 20 Ill. Reg. 7540, effective May 21, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 13611, effective October 3, 1996; amended at 20 Ill. Reg. 13993, effective October 3, 1996; emergency amendment at 20 Ill. Reg. 15613, effective November 22, 1996, for a maximum of 150 days; emergency expired on April 21, 1997; amended at 21 Ill. Reg. 6921, effective May 22, 1997; emergency amendment at 23 Ill. Reg. 9909, effective August 2, 1999, for a maximum of 150 days; emergency expired December 29, 1999; amended at 23 Ill. Reg. 14759, effective December 8, 1999; amended at 24 Ill. Reg. 2428, effective January 25, 2000; amended at 25 Ill. Reg. 191, effective December 26, 2000; amended at 25 Ill. Reg. _____, effective _____.

Section 110.113 Fraternal Organization Assessment Freeze

- a) For taxable year 2001 and thereafter, a fraternal organization chartered by the State of Illinois prior to 1900, or its subordinate organization or entity, may apply for a Fraternal Organization Assessment Freeze on property it owns and uses, provided that:
- 1) the fraternal organization prohibits gambling and the use of alcohol on the property;
 - 2) the fraternal organization is an exempt entity under Section 501(c)(10) of the Internal Revenue Code; and
 - 3) the members of the fraternal organization provide direct or indirect financial support for charitable works, such as:
 - A) medical care;
 - B) drug rehabilitation; or
 - C) education.
- b) Applications
- An application form (Form No. PMAX-764) for a Fraternal Organization Assessment Freeze [35 ILCS 200/10-350] shall be obtained from the Chief County Assessment Officer in the county in which the property is located. All questions on the application shall be answered completely and the chief presiding officer of the fraternal organization shall

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- sign the form. Fraternal organizations shall annually submit a notarized application form to the Chief County Assessment Officer on or before January 31 of each assessment year in counties with a population of 3,000,000 or more and December 31 of each assessment year in all other counties.
- c) Documentation
- Fraternal organizations shall, at a minimum, attach all required documentation to the initial application form as follows:
- 1) Proof of being a qualified fraternal organization, such as a copy of:
 - A) a charter issued by the State of Illinois prior to 1900;
 - B) a certification that the fraternal organization was issued an Illinois charter prior to 1900;
 - C) a certification that the fraternal organization was chartered by a qualified fraternal organization that was issued an Illinois charter prior to 1900; or
 - D) a certification that the fraternal organization is subordinate to a qualified fraternal organization that was issued an Illinois charter prior to 1900.
 - 2) Proof of having exempt status under Section 501(c)(10) of the Internal Revenue Code, such as a copy of:
 - A) a group exemption letter from the Internal Revenue Service to a fraternal organization, plus its annual filing to the Internal Revenue Service listing any other fraternal organizations covered by the letter;
 - B) a U.S. Form 990; or
 - C) a determination letter issued in response to U.S. Form 1024 by the Internal Revenue Service.
 - 3) Proof of having ownership or other legal or equitable interest in the property, such as a copy of:
 - A) a deed;
 - B) a contract-for-deed;
 - C) a trust document;
 - D) a title insurance policy;
 - E) an organizational agreement;
 - F) an incorporation document;
 - G) a court order;
 - H) an affidavit of adverse possession.
 - 4) Copies of leases or contracts concerning the property, if applicable.
 - d) Verification
- The Chief County Assessment Officer of each county may verify information contained on applications for a Fraternal Organization Assessment Freeze by any of the following methods:
- 1) Requiring each applicant, at the time of filing an application, to produce for inspection by the Chief County Assessment Officer, or a designee, any or all of the documentation specified in subsection (b);

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- 2) Establishing uniform audit guidelines and procedures for determining under what circumstances additional documentation will be required from applicants and what procedures will be used to obtain that documentation from applicants;
- 3) Examining under oath the affiant on the application or any other member of the fraternal organization, chartered fraternal organization, or subordinate fraternal organization; and
- 4) Examining any public records or conducting an investigation to determine the identity of persons using the property for the assessment year.

(Source: Added at 25 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3) Section Numbers: 130.1501
Proposed Action: Amendment
- 4) Statutory Authority: 35 ILCS 120/6
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking is a result of Public Act 91-901 and amends the offset procedures established for claims under the Retailers' Occupation Tax Act by correctly citing the local taxes that must first be offset before approval of a claim. The current regulation reflected the old statutory provisions that refer to taxes that no longer exist. The proposed amendments change specific references to myriad local taxes to "any local occupation or use tax administered by the Department." This rulemaking also corrects an example in subsection (a)(4)(D) regarding the statute of limitations as it pertains to claims.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? Yes

Section Numbers	Proposed Action	Illinois Register Citation
130.330	Amendment	24 Ill. Reg. 7617, 5/26/00
130.605	Amendment	24 Ill. Reg. 13617, 9/8/00
130.325	Amendment	24 Ill. Reg. 14393, 9/29/00
130.901	Amendment	24 Ill. Reg. 16573, 11/13/00
130.101	Amendment	24 Ill. Reg. 16986, 11/17/00
130.540	Amendment	24 Ill. Reg. 17948, 12/15/00
130.350	Amendment	24 Ill. Reg. 17948, 12/15/00
130.535	Amendment	24 Ill. Reg. 18505, 12/22/00
130.2105	Amendment	24 Ill. Reg. 18505, 12/22/00
130.401	Amendment	24 Ill. Reg. 19030, 12/29/00
130.110	Amendment	25 Ill. Reg. 44, 01/05/01
110.2105	Amendment	25 Ill. Reg. 386, 01/05/01

- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed

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rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

Gina Roccaforte
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
(217) 782-6996

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Persons filing claims for credit
- B) Reporting, bookkeeping or other procedures required for compliance:
None
- C) Types of professional skills necessary for compliance: None
- 13) Regulatory Agenda on which this rulemaking was summarized: January 2001
- The full text of the Proposed Amendments begins on the next page:

Section	Character and Rate of Tax
130.101	Responsibility of Trustees, Receivers, Executors or Administrators
130.105	Occasional Sales
130.110	Sale of Used Motor Vehicles by Leasing or Rental Business
130.111	Habitual Sales
130.115	Nontaxable Transactions
130.120	
Section	Subpart B: Sale At Retail
130.201	The Test of a Sale at Retail
130.205	Sales for Transfer Incident to Service
130.210	Sales of Tangible Personal Property to Purchasers for Resale
130.215	Further Illustrations of Sales for Use or Consumption Versus Sales for Resale
130.220	Sales to Lessors of Tangible Personal Property
130.225	Drop Shipments
Section	Subpart C: Certain Statutory Exemptions
130.305	Farm Machinery and Equipment
130.310	Food, Drugs, Medicines and Medical Appliances
130.315	Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.320	Gasohol
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Shows, Flea Markets and the Like
 Sales and Gifts By Employers to Employees
 Sales by Governmental Bodies
 Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
 Sales of Automobiles for Use in Demonstration (Repealed)
 Sales of Containers, Wrapping and Packing Materials and Related Products
 Sales To Construction Contractors, Real Estate Developers and Speculative Builders
 Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel
 Sales to or by Banks, Savings and Loan Associations and Credit Unions
 Sales to Railroad Companies
 Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
 Sellers of Feeds and Breeding Livestock
 Sellers of Newspapers, Magazines, Books, Sheet Music and Phonograph Records and Their Suppliers
 Sellers of Seeds and Fertilizer
 Sellers of Machinery, Tools and Special Order Items
 Suppliers of Persons Engaged in Service Occupations and Professions
 Trading Stamps and Discount Coupons
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 Vendors of Curtains, Slip Covers, Floor Covering and Other Similar Items Made to Order
 Vendors of Meals
 Vendors of Memorial Stones and Monuments
 Vendors of Signs
 Vendors of Steam
 Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
 Veterinarians
 Warehousemen
 Examples of Tax Exemption Cards

'AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg.

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3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg.

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_____, effective _____.

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section 130.1501 Claims for Credit--limitations--Procedure

a) Limitations Upon Claims

- 1) Where a taxpayer under the Retailers' Occupation Tax Act pays to the Department an amount of tax or penalty or interest not due under the provisions of the Act, either as the result of a mistake of fact or an error of law, such taxpayer may file a claim for credit with the Department. Beginning August 17, 1995, tax is deemed to be erroneously paid by a retailer when the manufacturer of a motor vehicle sold by the retailer accepts the return of that automobile and refunds to the purchaser the purchase price of the vehicle, as provided in Section 3 of the New Vehicle Buyer Protection Act [815 ILCS 380/3]. The claim is limited to taxes applicable to the purchase price of the automobile refunded to the consumer, which includes all collateral charges required to be included in the sales tax calculation (e.g., documentary fees), but does not include any reasonable allowance for consumer use of the automobile deducted from the purchase price by the manufacturer. Retailers filing such claims must comply with all requirements of this Section.
- 2) The Department cannot approve any claim for credit unless the proof submitted in support thereof clearly establishes that the claimant has borne the burden of the tax erroneously paid or that he has unconditionally repaid the amount of the tax to his vendee from whom he has collected such amount. In the latter event, the claimant must also prove that his vendee has borne the burden of such amount or has unconditionally repaid persons to whom such vendee has shifted the burden of such amount (see Section 6 of the Retailers' Occupation Tax Act).

- 3) In addition, if the Retailers' Occupation Tax was paid on receipts from a sale made on or after August 1, 1955, no credit shall be allowed for any such amount paid by or collected from any claimant unless it shall appear that the claimant has unconditionally repaid, to the purchaser, any amount collected from the purchaser and retained by the claimant with respect to the same transaction under the Use Tax Act.

- 4) The Department cannot approve any claim for credit to the extent that the amount claimed is an amount which has been paid (voluntarily or involuntarily) in total or partial liquidation of an assessment which had become final before the claim for credit to recover the amount so paid is filed with the Department, or if paid in total or partial liquidation of a judgment, order or decree of court. Also, all claims for credit are subject to the statute of limitations, as follows:

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Provided that as to any claim for credit filed with the Department on and after each January 1 and July 1 no amount of tax or penalty or interest erroneously paid (either in total or partial liquidation of a tax or penalty or amount of interest under the Act) more than 3 years prior to such January 1 and July 1, respectively, shall be credited; . . . except that if both the Department and the taxpayer have agreed to an extension of time to issue a notice of tax liability as provided in Section 4 of the Act, such claim may be filed at any time prior to the expiration of the period agreed upon. (Section 6 of the Act)

This means that the normal statute of limitations will vary from 3 to 3 1/2 years as shown in the following examples:

- A) On June 29, 1999 a taxpayer files a claim with the Department. The credit may be allowed for amounts paid on or after January 1, 1996. The credit will not be allowed for amounts paid on or before December 31, 1995.
 - B) A taxpayer files a claim with the Department on July 2, 1999. In this case, amounts paid on or before June 30, 1996 were paid more than three years prior to July 1, 1999 and are not subject to refund.
 - C) A taxpayer files a claim on November 30, 1999 for the months of October through December 1996. The claim will be processed by the Department because the time period that is open under the statute of limitations extends back through July 1, 1996.
 - D) A taxpayer files a claim on January 5, 2000 for the month months of October through--December 1996 that was paid on November 20, 1996. The claim will not be approved by the Department because it is barred by the statute of limitations. A claim filed on January 5, 2000 only has open periods back through January 1, 1997.
- b) Filing of Claims
- 1) Claims for credit shall be prepared and filed upon forms provided by the Department. Each claim shall state:
 - A) the name and principal business address of the claimant;
 - B) the period covered by the claim;
 - C) the total amount of credit claimed, giving in detail the net amount of taxable receipts reported each month or other return period used by the claimant as the basis for filing returns in the period covered by the claim;
 - D) the total amount of tax paid for each return period;
 - E) receipts upon which tax liability is admitted for each return period;
 - F) the amount of receipts on which credit is claimed for each return period;
 - G) the tax due for each return period as corrected;
 - H) the amount of credit claimed for each return period;
 - I) reason or reasons why the amount, for which the claim is

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filed, is alleged to have been paid in error;
 J) a list of the evidence (documentary or otherwise) which the claimant has available to establish his compliance with Section 6 as to bearing the burden of the tax for which he seeks credit;

K) payments or parts thereof (if any) included in the claim and paid by the claimant under protest;
 L) sufficient information to identify any suit which involves the Act, and to which the claimant is a party; and
 M) such other information as the Department may reasonably require.

2) Where the claimant is a corporation, the claim filed on behalf of such corporation shall be signed by the president, vice-president, secretary or treasurer or by the properly accredited agent of such corporation.

3) A claim for credit shall be considered to have been filed with the Department on the date upon which it is received by the Department. (See Sections 130.1201 and 130.1205 of this Part for further information regarding when claims are deemed to be "received" by the Department.)

4) Upon receipt of any claim for credit filed under the Act, any officer or employee of the Department, authorized in writing by the Director of Revenue to acknowledge receipt of such claims on behalf of the Department, shall execute on behalf of the Department, and shall deliver or mail to the claimant or his duly authorized agent, a written receipt, acknowledging that the claim has been filed with the Department, describing the claim in sufficient detail to identify it and stating the date upon which the claim was received by the Department.

5) Such written receipt shall be prima facie evidence that the Department received the claim described in such receipt and shall be prima facie evidence of the date when such claim was received by the Department.

6) In the absence of such a written receipt, the records of the Department as to when the claim was received by the Department, or as to whether or not the claim was received at all by the Department, shall be deemed to be prima facie correct upon these questions in the event of any dispute between the claimant (or his legal representative) and the Department concerning these questions. (See Section 6a of the Act.)

c) Procedure After Filing of Claims

1) The Department will examine each claim for credit as soon as practicable after such claim is filed and will notify the claimant (or his legal representative, if the claim is filed by such legal representative, or if the claimant has died or become incompetent and such legal representative has notified the Department of his appointment and qualification as such legal representative, or if the Department, on its own motion, has

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substituted such legal representative in the proceeding for the deceased or incompetent claimant) of its Tentative Determination of the amount of credit, if any, to which the claimant or his legal representative is entitled.

2) If such claimant, or the legal representative of a deceased or incompetent taxpayer, shall, within 60 days after the Department's Notice of Tentative Determination of Claim, file a protest and request a hearing, the Department shall give notice to the claimant, or to the legal representative of a deceased or incompetent taxpayer, of the time and place fixed for the hearing, and shall hold a hearing in conformity with the provisions of the Act, and pursuant thereto shall issue its Final Determination of the amount of credit, if any, found to be due as a result of the hearing, to the claimant, or to the legal representative of a deceased or incompetent taxpayer.

3) If a protest to the Department's Notice of Tentative Determination of Claim is not filed within 60 days and a request for a hearing is not made as provided in subsection (c)(2), the Notice shall thereupon become and operate as a Final Determination. (See Sections 6b and 6c of the Act.)

d) Use of Credit Memoranda to Satisfy Prior Rights of Department

1) If, following the above procedure, a credit is found to be due, as evidence thereof a credit memorandum for such amount shall be issued in the name of the claimant.

2) If there is an established unpaid assessment or an admitted unpaid liability, or unpaid penalty, or unpaid amount of interest, against the claimant either under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Occupation Tax Act, the Service Use Tax Act, any local Occupation or Use Tax administered by the Department, ~~the Home-Rule-Municipal-Retailers'-Occupation-Tax-Act-165-1BES-5/8-11-17, Non-Home-Rule-Municipal-Retailers'-Occupation-Tax-Act-165-1BES-5/8-11-17, the Home-Rule-Municipal-Service-Occupation-Tax-Act-165-1BES-5/8-11-17, the Home-Rule-County-Retailers'-Occupation-Tax-Act-155-1BES-5/5-10067, the Home-Rule-County-Service-Occupation-Tax-Act-155-1BES-5/5-10067, Section 4 of the Water Commission Act of 1985 [70 ILCS 3720/4], Section 5.01(b), (c) and (d) of the Local Mass Transit District Act [70 ILCS 3610/5.01], or Section 4.03(e), (f) and (g) of the Regional Transportation Authority Act [70 ILCS 3615/4.03], the amount of the credit shall be credited against the tax or penalty or interest due or to become due under the Retailers' Occupation Tax Act, or under the Use Tax Act, the Service Occupation Tax Act, the Service Use Tax Act, the Home Rule Municipal Retailers' Occupation Tax Act, the Non-Home Rule Municipal Retailers' Occupation Tax Act, any local Occupation or Use Tax administered by the Department, ~~the Home-Rule-Municipal-Service-Occupation-Tax-Act, the Non-Home-Rule-Municipal-Service-~~~~

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~~Occupation Tax Act, the Home Rule County Retailers' Occupation Tax Act, the Home Rule County Service Occupation Tax Act, Section 4 of the Water Commission Act of 1985, Section 5.01(b), (c) and (d) of the Local Mass Transit District Act, or Section 4.03(e), (f) and (g) of the Regional Transportation Authority Act, from the person who made the erroneous payment.~~

- 3) If the credit is in an amount less than that of the unpaid liability, it shall be applied pro tanto.
- 4) If the amount of the credit exceeds that of the unpaid liability, after crediting an amount sufficient to liquidate or cancel out such unpaid liability, a new credit memorandum shall be issued for an amount representing the difference between that of the original credit found to be due and that of the liability liquidated or paid as aforesaid, and such new credit memorandum shall be delivered to the person entitled to receive delivery thereof, provided that no proceeding is pending against the claimant to establish an unpaid liability under the Retailers' Occupation Tax Act, the Use Tax Act, the Service Occupation Tax Act, the Service Use Tax Act, any local Occupation or Use Tax administered by the Department, ~~the Home Rule Municipal Retailers' Occupation Tax Act, the Non-Home Rule Municipal Retailers' Occupation Tax Act, the Home Rule Municipal Service Occupation Tax Act, the Non-Home Rule Municipal Service Occupation Tax Act, the Home Rule County Retailers' Occupation Tax Act, the Home Rule County Service Occupation Tax Act, Section 4 of the Water Commission Act of 1985, Section 5.01(b), (c) and (d) of the Local Mass Transit District Act, or Section 4.03(e), (f) and (g) of the Regional Transportation Authority Act.~~
- 5) If a proceeding to establish such an unpaid liability is pending, the credit memorandum shall be held by the Department until such proceeding is concluded; and if such proceeding results in the issuance of an assessment which becomes final, the credit shall be applied by the Department, to the extent which may be necessary, in liquidation of such assessment, or any interest that may accrue thereon, and the balance of the credit, if any (after cancellation of the credit memorandum applied in liquidation of such liability), shall be issued in the form of a new credit memorandum and delivered to the person entitled to receive delivery thereof.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Carriage by Public Highway
- 2) Code Citation: 92 Ill. Adm. Code 177
- 3) Section Numbers: Proposed Action:
177.2000 Amend
- 4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

5) A complete description of the subjects and issues involved: By this Notice, the Department is proposing to update the incorporation by reference date of 49 CFR 177 to the October 1, 2000 edition that is the most recent edition of the CFR. This proposed rulemaking also includes the federal rulemaking adopted at 65 FR 60382, October 11, 2000.

The following summaries provide a description of federal rulemakings that are applicable to this Part, that became effective since October 1, 1997 and that are included in the October 1, 2000 edition of the CFR.

Docket HM-169B (63 FR 48566, September 10, 1998) Removes regulations on "Radiation Protection Program" and related modal provisions that require persons who offer, accept for transportation, or transport radioactive materials to develop and maintain a written radiation program.

Docket HM-1890 (63 FR 52844, October 1, 1998) Corrects editorial errors, makes minor regulatory changes, and improves the clarity of certain provisions in the Hazardous Materials Regulations (HMR).

Docket HM-215C (64 FR 10742, March 5, 1999) Amends the HMR to maintain alignment with international standards by incorporating changes to proper shipping names, hazards classes, packing groups, special provisions, and packaging authorizations. Also eliminates the "Keep Away From Food" label for poisonous materials in Division 6.1, Packing Group III.

Docket HM-225A (64 FR 28030, May 24, 1999) Revised regulations applicable to the transportation and unloading of liquefied compressed gases. The revisions include new inspection, maintenance, and testing requirements for cargo tank discharge systems, including delivery hose assemblies, and revised attendance requirements. Also revised the requirements for cargo tank emergency discharge control equipment.

Docket HM-225A (64 FR 36802, July 8, 1999) Delayed implementation of the May 24, 1999 final rule as it applies to chlorine unloading operations until January 1, 2000.

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Docket HM-218 (65 FR 50450, August 18, 2000) Incorporates miscellaneous changes based on petitions for rulemaking and RSPA initiatives. This rulemaking updates, clarifies and improves regulatory requirements and provides relief from certain requirements where feasible.

Docket HM-1890 (65 FR 58614, September 29, 2000) Corrects editorial errors, makes minor regulatory changes and improves the clarity of certain provisions in the regulations.

Additionally, the Department's regulations will incorporate changes made in the following Docket:

Docket HM-1890 (65 FR 60382, October 11, 2000) Corrects the final rule of September 29, 2000.

- 6) Will this proposed rulemaking replace an emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? Yes
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking will not affect units of local government.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail:

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

By Messenger or Inter-Agency Mail:

DOT Annex Building
3215 Executive Park Drive
Commercial Vehicle Safety, 3rd Floor
Springfield, Illinois

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NOTICE OF PROPOSED AMENDMENTS

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764
(217) 782-3215

Comments received within 45 days after the date after publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: This rulemaking affects small businesses that transport placarded hazardous materials.
- B) Reporting, bookkeeping or other procedures required for compliance: No additional requirements are necessary for compliance.
- C) Types of professional skills necessary for compliance: No additional skills are necessary for compliance.

- 13) Regulatory Agenda on which this rulemaking was summarized: July 2000

The full text of these Proposed Amendments begins on the next page:

DEPARTMENT OF TRANSPORTATION
NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER C: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

PART 177
CARRIAGE BY PUBLIC HIGHWAY

Section
177.1000 General
177.2000 Incorporation By Reference of 49 CFR 177

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

SOURCE: Adopted at 3 Ill. Reg. 5, p. A1, effective February 1, 1979; amended at 4 Ill. Reg. 30, p. 1244, effective July 10, 1980; amended at 6 Ill. Reg. 4287, effective April 16, 1982; amended at 7 Ill. Reg. 3486, effective April 2, 1983; codified at 8 Ill. Reg. 18930; Part repealed, new Part adopted at 10 Ill. Reg. 5853, effective April 1, 1986; amended at 10 Ill. Reg. 20749, effective December 1, 1986; amended at 11 Ill. Reg. 4768, effective March 10, 1987; amended at 11 Ill. Reg. 17881, effective October 20, 1987; amended at 12 Ill. Reg. 8074, effective April 26, 1988; amended at 13 Ill. Reg. 3957, effective March 14, 1989; amended at 14 Ill. Reg. 2613, effective February 1, 1990; amended at 15 Ill. Reg. 7743, effective May 7, 1991; amended at 16 Ill. Reg. 11843, effective July 13, 1992; amended at 18 Ill. Reg. 7852, effective May 6, 1994; amended at 20 Ill. Reg. 6531, effective April 30, 1996; amended at 22 Ill. Reg. 5686, effective March 4, 1998; amended at 22 Ill. Reg. 17003, effective September 30, 1998; amended at 25 Ill. Reg. _____, effective _____.

Section 177.2000 Incorporation By Reference of 49 CFR 177

- a) As Part 177 of the Illinois Hazardous Materials Transportation Regulations, the Department incorporates 49 CFR 177 by reference, as that Part of the federal hazardous materials transportation regulations was in effect on October 1, 2000; as amended at 65 FR 60382, October 11, 2000 ~~1997~~ ~~and as amended at 63-FR-374547-July-167~~ ~~1998~~, subject only to the exceptions in subsection (b) of this Section. No later amendments to or editions of 49 CFR 177 are incorporated.
- b) The following interpretations of, additions to and deletions from 49 CFR 177 shall apply for purposes of this Part.
- 1) All references to "this part" in the incorporated federal regulations shall mean Part 177 of the Illinois Hazardous Materials Transportation Regulations.
 - 2) All references to "this chapter" or "this subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code: Chapter 1, Subchapter C.

- DEPARTMENT OF TRANSPORTATION
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- 3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations.
- 4) All references to part ~~Parts~~ 174, 175 or 176, or to sections therein shall be read to refer to those parts ~~Parts~~ or sections in the federal hazardous materials transportation regulations.
- 5) All references to shipment of hazardous materials by air, water and rail are incorporated for reference purposes only for those persons contemplating intermodal movements of hazardous materials.
- 6) All references to motor vehicles engaged in interstate commerce shall be deemed to include any motor vehicle engaged in commerce within the State of Illinois.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Continuing Qualification and Maintenance of Packaging
- 2) Code Citation: 92 Ill. Adm. Code 180
- 3) Section Numbers: Proposed Action:
180.2000 Amended
- 4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].
- 5) A complete description of the subjects and issues involved: By this Notice, the Department is proposing to update the incorporation by reference date of 49 CFR 180 to the October 1, 2000 edition, the most recent edition of the CFR. The following summaries provide a description of federal rulemaking that are applicable to this Part, that became effective since October 1, 1997 and that are included in the October 1, 2000 edition of the Code of Federal Regulations (CFR).

Docket HM-1890 (63 FR 52844, October 1, 1998) Corrects editorial errors, makes minor regulatory changes, and improves the clarity of certain provisions in the Hazardous Materials Regulations (HMR).

Docket HM-215C (64 FR 10742, March 5, 1999) Amends the HMR to maintain alignment with international standards by incorporating changes to proper shipping names, hazards classes, packing groups, special provisions, and packaging authorizations. Also eliminates the "Keep Away From Food" label for poisonous materials in Division 6.1, Packing Group III.

Docket HM-225A (64 FR 28030, May 24, 1999) Revised regulations applicable to the transportation and unloading of liquefied compressed gases. The revisions include new inspection, maintenance, and testing requirements for cargo tank discharge systems, including delivery hose assemblies, and revised attendance requirements. Also revised the requirements for cargo tank emergency discharge control equipment.

Docket HM-225A (64 FR 36802, July 8, 1999) Delayed implementation of the May 24, 1999 final rule as it applies to chlorine unloading operations until January 1, 2000.

Docket HM-218 (65 FR 50450, August 18, 2000) Incorporates miscellaneous changes based on petitions for rulemaking and RSPA initiatives. This rulemaking updates, clarifies and improves regulatory requirements and provides relief from certain requirements where feasible.

Docket HM-1890 (65 FR 58614, September 29, 2000) Corrects editorial

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errors, makes minor regulatory changes and improves the clarity of certain provisions in the regulations.

- 6) Will this proposed rulemaking replace an emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? Yes
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking will not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rulemaking. Written submissions shall be filed with:

By U.S. Mail:

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

By Messenger or Inter-Agency Mail:

DOT Annex Building
3215 Executive Park Drive
Commercial Vehicle Safety; 3rd Floor
Springfield, Illinois

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764
(217) 782-3215

Comments received within 45 days after the date after publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

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12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: This rulemaking affects small businesses that transport placarded hazardous materials.
- B) Reporting, bookkeeping or other procedures required for compliance:
No additional requirements are necessary for compliance.
- C) Types of professional skills necessary for compliance: No additional skills are necessary for compliance.

13) Regulatory Agenda on which this rulemaking was summarized: July 2000

The full text of these Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION

CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER C: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

PART 180

CONTINUING QUALIFICATION AND MAINTENANCE OF PACKAGING

Section
180.1000 General
180.2000 Incorporation by Reference of 49 CFR 180

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

SOURCE: Adopted at 14 Ill. Reg. 2617, effective February 1, 1990; amended at 15 Ill. Reg. 7748, effective May 7, 1991; amended at 16 Ill. Reg. 11847, effective July 13, 1992; amended at 18 Ill. Reg. 7857, effective May 6, 1994; amended at 20 Ill. Reg. 6535, effective April 30, 1996; amended at 22 Ill. Reg. 5690, effective March 4, 1998; amended at 22 Ill. Reg. 17007, effective September 30, 1998; amended at 25 Ill. Reg. _____, effective _____.

Section 180.2000 Incorporation by Reference of 49 CFR 180

- a) As Part 180 of the Illinois Hazardous Materials Transportation Regulations, the Department incorporates 49 CFR 180 by reference, as that part of the federal hazardous materials transportation regulations was in effect on October 1, 2000 ~~1997~~ ~~and as amended at 63--FR--37454, July--10,--1998~~, subject only to the exceptions in subsection (b) of this Section. No later amendments to or editions of 49 CFR 180 are incorporated.
- b) The following interpretations of, additions to and deletions from 49 CFR 180 shall apply for purposes of this Part.
- 1) All references to "this part" in the incorporated federal regulations shall mean Part 180 of the Illinois Hazardous Materials Transportation Regulations.
 - 2) All references to "this chapter" or "this Subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code: Chapter I, Subchapter C.
 - 3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations.
 - 4) All references to **part** **Parts** 174, 175, or 1767 or to sections therein shall be read to refer to those parts or sections in the federal hazardous materials transportation regulations.
 - 5) All references to shipments of hazardous materials by air, water and rail are incorporated for reference purposes only for those

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persons contemplating intermodal movements of materials.

(Source: Amended at 25 Ill. Reg.

DEPARTMENT OF TRANSPORTATION
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1) Heading of the Part: Hazardous Materials Table and Hazardous Materials

Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act (430 ILCS 30/4.a) and 3(a)

A complete description of the subjects and issues involved: By this Notice, the Department is proposing to update the incorporation by reference date of 49 CFR 172 to the October 1, 2000 edition, and to include the federal rulemaking adopted at 65 FR 60382, October 11, 2000.

The following summaries provide a description of federal rulemakings that are applicable to this Part, that became effective since October 1, 1997 and that are included in the October 2000 edition of the CFR.

(63 FR 48566, September 10, 1998) Removes Aviation Protection Program and related modal persons who offer, accept for radioactive materials to develop and

1890 (63 FR 52844, October 1, 1998) makes minor regulatory changes and improves the clarity in provisions in Hazardous

HM-215C (64 FR 10742, March 5, 1999) Amends the HMR to maintain alignment with international standards by incorporating changes to proper shipping names, hazards classes, packing groups, special provisions, packaging, and the "Keep Away From Food" label for poisonous materials in Division 6.1, Packing Group III.

Docket HM-215C (64 FR 44426, August 16, 1999) Corrects minor errors in the March 5, 1999 final rule.

Docket HM-215C (64 FR 44578, August 16, 1999) Corrects minor errors to 49 CFR 172.101- Hazardous Material Table-in the March 5, 1999 final rule.

Docket HM-224A (64 FR 45388, August 19, 1999) Prohibits the use of chemical oxidizers on aircraft cargo

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compartments that do not have a fire or smoke detection and fire suppression system and limits the number of oxygen cylinders that may be stowed on an aircraft.

Docket HM-189P (64 FR 51912, September 27, 1999) Corrects editorial errors, makes minor regulatory changes and improves the clarity of certain provisions in the HMR.

Docket HM-189P (64 FR 61219, November 10, 1999) Corrects minor errors in the September 27, 1999 final rule.

Docket HM-145L (65 FR 7310, February 14, 2000) Amends the Hazardous Materials Regulations by revising the "List of Hazardous Substances and Reportable Quantities" that appear in Appendix A to the Hazardous Materials Table.

Docket HM-218 (65 FR 50450, August 18, 2000) Incorporates miscellaneous changes based on petitions for rulemaking and RSA initiatives. This rulemaking updates, clarifies, improves regulatory requirements and provides relief from certain requirements where feasible.

Docket HM-189Q (65 FR 58614, September 29, 2000) Corrects editorial errors, makes minor regulatory changes and improves the clarity of certain provisions in the regulations.

Additionally, the Department's regulations will also incorporate changes made in the following Docket not currently found in the October 1, 2000 edition:

Docket HM-189Q (65 FR 60382, October 11, 2000) Corrects the final rule of September 29, 2000.

- 6) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? Yes
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking will not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be

DEPARTMENT OF TRANSPORTATION

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filed with:

By U.S. Mail:

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

By Messenger or Inter-Agency Mail:

DOT Annex Building
3215 Executive Park Drive
Commercial Vehicle Safety, 3rd Floor
Springfield, Illinois

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764
(217) 782-3215

Comments received within 45 days after the date after publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: This rulemaking affects small businesses that transport placarded hazardous materials.
- B) Reporting, bookkeeping or other procedures required for compliance: No additional requirements are necessary for compliance.
- C) Types of professional skills necessary for compliance: No additional skills are necessary for compliance.

- 13) Regulatory Agenda on which this rulemaking was summarized: July 2000

The full text of these Proposed Amendments begins on the next page:

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- 1) Heading of the Part: Hazardous Materials Transportation: General Information, Regulations and Definitions

2) Code Citation: 92 Ill. Adm. Code 171

- 3) Section Numbers: 171.22 Amend
171.100C Amend

- 4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

- 5) A complete description of the subjects and issues involved: By this Notice, the Department is proposing to update the incorporation by reference date of 49 CFR 171 to the October 1, 2000 edition, the most recent edition of the CFR.

The following summaries provide a description of federal rulemakings that are applicable to this Part, that became effective since October 1, 1997 and that are included in the October 2000 edition of the CFR.

Docket HM-1890 (63 FR 52844, October 1, 1998) Corrects editorial errors, makes minor regulatory changes and improves the clarity of certain provisions in the Hazardous Materials Regulations (HMR).

Docket HM-215C (63 FR 57929, October 29, 1998) Amends a requirement for use of the International Civil Aviation Organization's Technical Instructions for the Safe Transport of Dangerous Goods by Air.

Docket HM-225B (64 FR 9923, March 1, 1999) Extended from March 1, 1999 to July 1, 1999, the period for continued manufacture of MC 331 cargo tanks without certification and demonstrated performance of the emergency discharge control system.

Docket HM-215C (64 FR 10742, March 5, 1999) Amends the HMR to maintain alignment with international standards by incorporating changes to proper shipping names, hazard classes, packing groups, special provisions and packaging authorizations. Also, eliminates the "Keep Away From Food" label for poisonous materials in Division 6.1, Packing Group III.

Docket HM-225A (64 FR 28030, May 24, 1999) Revised regulations applicable to the transportation and unloading of liquefied compressed gases. The revisions include new inspection, maintenance and testing requirements for cargo tank discharge systems, including delivery hose assemblies, and revised attendance requirements. Also revised the requirements for cargo tank emergency discharge control equipment.

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Docket HM-224A (64 FR 45388, August 19, 1999) Prohibits the carriage of chemical oxidizers in inaccessible aircraft cargo compartments that do not have a fire or smoke detection and fire suppression system and limits the number of oxygen cylinders that may be stowed on an aircraft.

Docket HM-206D (64 FR 50260, September 16, 1999) Provided a limited exception, until October 1, 2001, from requirements to place the new POISON INHALATION HAZARD or POISON GAS labels on packages that are intended for transportation in international commerce.

Docket HM-206D (64 FR 51719, September 24, 1999) Corrects an error in the September 16, 1999 final rule in the section on Canadian shipments and packaging.

Docket HM-189P (64 FR 51912, September 27, 1999) Corrects editorial errors, makes minor regulatory changes, and improves the clarity of certain provisions in the HMR.

Docket HM-189P (64 FR 61219, November 10, 1999) Corrects minor errors in the September 27, 1999 final rule.

Docket HM-218 (65 FR 50450, August 18, 2000) Incorporates miscellaneous changes based on petitions for rulemaking and RSPA initiatives. This rulemaking updates, clarifies and improves regulatory requirements and provides relief from certain requirements where feasible.

Docket HM-189Q (65 FR 58614, September 29, 2000) Corrects editorial errors, makes minor regulatory changes and improves the clarity of certain provisions in the regulations.

Additionally, at Section 171.22, the Department added a new subsection that provides an exception for the transportation of a class 2 agricultural product. This action is being taken pursuant to the federal final rulemaking of August 18, 2000 (65 FR 50450).

6) Will this proposed rulemaking replace an emergency amendment currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? Yes

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking will not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this

DEPARTMENT OF TRANSPORTATION

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proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail:

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

By Messenger or Inter-Agency Mail:

IDOT Annex Building
3215 Executive Park Drive
Commercial Vehicle Safety; 3rd Floor
Springfield, Illinois

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764
(217) 782-3215

Comments received within 45 days after the date after publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: This rulemaking affects small businesses that transport placarded hazardous materials.
- B) Reporting, bookkeeping or other procedures required for compliance: No additional requirements are necessary for compliance.
- C) Types of professional skills necessary for compliance: No additional skills are necessary for compliance.

13) Regulatory Agenda on which this rulemaking was summarized: July 2000

The full text of these Proposed Amendments begins on the next page:

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER C: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

PART 171

HAZARDOUS MATERIALS TRANSPORTATION: GENERAL INFORMATION, REGULATIONS AND
DEFINITIONS

Section	Purpose and Scope
171.1	General Transportation Requirements
171.2	Hazardous Waste
171.3	Exemptions (Renumbered)
171.4	Agricultural Exception (Repealed)
171.5	Agricultural Exception (Renumbered)
171.6	Matter Incorporated by Reference (Repealed)
171.7	Definitions and Abbreviations (Repealed)
171.8	Rules of Construction (Repealed)
171.9	Import and Export Shipments (Repealed)
171.10	Specification Markings (Repealed)
171.11	Incident Reporting Requirements
171.12	Exemptions
171.13	Continuation of Effectiveness of Existing Bureau of Explosives Registrations (Repealed)
171.14	Approvals or Authorizations Issued by the Bureau of Explosives (Repealed)
171.15	Retailer Exception
171.16	Agricultural Exception
171.17	Incorporation by Reference of 49 CFR 171

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

SOURCE: Adopted at 3 Ill. Reg. 5, p. 41, effective February 1, 1979; amended at 6 Ill. Reg. 4287, effective April 16, 1982; amended at 7 Ill. Reg. 3486, effective April 2, 1983; codified at 8 Ill. Reg. 17984; amended at 10 Ill. Reg. 9636, effective May 15, 1986; amended at 10 Ill. Reg. 20753, effective December 1, 1986; emergency amendment at 11 Ill. Reg. 1684, effective January 16, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 4772, effective March 10, 1987; amended at 11 Ill. Reg. 7767, effective April 14, 1987; amended at 11 Ill. Reg. 17886, effective October 20, 1987; amended at 12 Ill. Reg. 8078, effective April 26, 1988; amended at 13 Ill. Reg. 3984, effective March 14, 1989; amended at 14 Ill. Reg. 2621, effective February 1, 1990; amended at 15 Ill. Reg. 7752, effective May 7, 1991; amended at 16 Ill. Reg. 12208, effective July 20, 1992; amended at 18 Ill. Reg. 7861, effective May 6, 1994; amended at 20 Ill. Reg. 6539, effective April 30, 1996; emergency amendment at 21 Ill. Reg. 4043, effective March 17, 1997, for a maximum of 150 days; emergency expired August 13, 1997; amended at 22 Ill. Reg. 5694, effective March 4, 1998;

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amended at 22 Ill. Reg. 17011, effective September 30, 1998; amended at 25 Ill. Reg. _____, effective _____.

Section 171.22 Agricultural Exception

- a) This Subchapter c does not apply to the transportation in Illinois of an agricultural product, other than Class 2 material, by a farmer as a private intrastate carrier over local roads between fields of the same farm in approved containers and in the amounts and manner specified in 49 CFR 173.5(b)(2) and (4).
- b) Transportation of a Class 2 agricultural product by a farmer as a private intrastate carrier over local roads between fields of the same farm in approved containers and in the amounts and manner specified in 49 CFR 173.5(b)(2) and (4) are excepted from the requirements of subparts G and H of 49 CFR 172.
- c) Transportation of an agricultural product to or from a farm, within 150 miles of the farm, in approved containers and conforming to 49 CFR 173.5(b)(1), (2) and (4) are excepted from the requirements in subparts G and H of 49 CFR 172.
- d) See also 49 CFR 173.5(c) pertaining to specification packagings used for aerial application of formulated liquid agricultural products.
- e) See also 49 CFR 173.315(m) pertaining to nurse tanks of anhydrous ammonia.
- f) See also 49 CFR 173.6 pertaining to materials of trade.

(Source: Amended at 25 Ill. Reg. _____, effective _____.)

Section 171.1000 Incorporation by Reference of 49 CFR 171

- a) As Part 171 of the Illinois Hazardous Materials Transportation Regulations, the Department incorporates the following sections of 49 CFR 171 by reference, as those sections of the federal hazardous materials transportation regulations were in effect on October 1, 2000: 1997-~~as amended at 62-PR-651867-December-10-1997~~-and-as-amended at-63-PR-374547-July-10-1998, subject only to the exceptions in subsection (b) of this Section. No later amendments to or editions of those sections of 49 CFR 171 are incorporated.

171.4 Marine Pollutions
171.5 Temporary Regulation: Liquefied Compressed Gases in Cargo Tank Motor Vehicles
171.7 Referenced Material
171.8 Definitions and Abbreviations
171.9 Rules of Construction
171.10 Units of Measure
171.11 Use of ICAO Technical Instructions
171.12 Import and Export Shipments

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171.12a Canadian Shipments and Packagings
171.14 Transitional Provisions
for Implementing Requirements Based on the UN Recommendations
171.18 Continuation of Effectiveness of Existing Bureau of Explosives Registrations
171.19 Approvals or Authorizations Issued by the Bureau of Explosives
171.20 Submission of Examination Reports

- b) The following interpretations of, additions to and deletions from the above incorporated sections of 49 CFR 171 shall apply for purposes of this Part.

- 1) All references to "this part" in the incorporated federal regulations shall mean Part 171 of the Illinois Hazardous Materials Transportation Regulations.
- 2) All references to "this chapter" or "this subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code: Chapter I, Subchapter C.
- 3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations.
- 4) All references to part ~~Part~~ 176 or to sections therein shall be read to refer to that part or sections in the federal regulations.
- 5) All references to shipments of hazardous materials by air, water and rail are incorporated for reference purposes only for those persons contemplating intermodal movements of hazardous materials.
- 6) All references to "these regulations" refer to the Illinois Hazardous Materials Transportation Regulations, 92 Ill. Adm. Code 107 through 180.
- 7) All references to a "settlement agreement", in these regulations, means a written understanding between the Department and the person being charged.

(Source: Amended at 25 Ill. Reg. _____, effective _____.)

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- 1) Heading of the Part: Procedures
- 2) Code Citation: 92 Ill. Adm. Code 107
- 3) Section Numbers: 107.315
107.601
Proposed Action:
Amend
Amend
- 4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

5) A complete description of the subjects and issues involved: By this Notice, the Department is proposing to add to the criterion that must be met when a Notice of Intent to Assess Civil Monetary Penalty is issued. The revision includes a statement that if the respondent does not reply to the Notice of Intent to Assess Civil Monetary Penalty within 30 days of service upon respondent, the Secretary of the Department will order the assessment of the civil penalty stated in the Notice. Some operators of commercial motor vehicles fail to respond to the Department's Notice of Intent to Assess Civil Monetary Penalty. Therefore, this amendment is necessary to increase the likelihood that those carriers will respond or they will be automatically assessed the civil penalty.

The following summary provides a description of a federal rulemaking that is applicable to this Part, that became effective since October 1, 1997 and that is included in the October 1, 2000 edition of the Code of Federal Regulations (CFR).

Docket HM-208C (65 FR 7297, February 14, 2000) Amends the registration and fee assessment program for persons who transport or offer for transportation certain categories and quantities of hazardous materials. The revision expands the criteria for those persons required to register to include all persons who offer transportation or transport hazardous materials that require placarding. This final rule adopts a two-tiered fee schedule and permits registration for one, two, or three years.

Additionally, the Department is proposing to update the incorporation by reference date of 49 CFR 107, Subpart G to the October 1, 2000 edition, the most recent edition of the CFR.

- 6) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? Yes

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- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking will not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail:
Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

By Messenger or Inter-Agency Mail:

DOT Annex Building
3215 Executive Park Drive
Commercial Vehicle Safety, 3rd Floor
Springfield, Illinois

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764
(217) 782-3215

Comments received within 45 days after the date after publication of this Illinois Register will be considered. Comments received after that time will be considered, time permitting.

- 12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: This rulemaking affects small businesses that transport placarded hazardous materials.
- B) Reporting, bookkeeping or other procedures required for compliance: No additional requirements are necessary for compliance.
- C) Types of professional skills necessary for compliance: No additional skills are necessary for compliance.

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13) Regulatory Agenda on which this rulemaking was summarized: July 2000

The full text of this Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION

CHAPTER I: DEPARTMENT OF TRANSPORTATION

SUBCHAPTER C: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

PART 107

PROCEDURES

SUBPART A: GENERAL PROVISIONS

Section

107.1 Purpose and Scope

107.3 Definitions

107.5 Request for Confidential Treatment

107.11 Service

107.13 Subpoenas

SUBPART B: EXEMPTIONS

Section

107.101 Purpose and Scope

107.102 Persons Holding Federal Exemptions

107.103 Applications for Exemptions for Persons Transporting Hazardous Materials Not Governed by the Federal Hazardous Materials Regulations

107.105 Application for Renewal

107.107 Initial Application Review

107.109 Processing of Application

107.111 Party to an Exemption

107.117 Withdrawal

107.119 Termination

107.121 Appeal

107.123 Availability for Public Inspection

SUBPART D: ENFORCEMENT

Section

107.301 Responsibility for Enforcement

107.303 Purpose and Scope

107.305 Investigations

107.307 Inspection and Examination of Records and Properties

107.308 Notice of Apparent Violation

107.309 Stopping of Vehicles

107.310 Department Review of Notice of Apparent Violation

107.311 Warning Letter

107.313 Civil Penalties Generally

107.314 Maximum Penalties

107.315 Commencement of Civil Penalty Proceeding

107.316 Reply

107.317 Payment of Penalty

107.318 Request for Hearing

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- 107.319 Hearing
107.320 Presiding Officer's Decision
107.321 Assessment Considerations
107.323 Appeal
107.331 Compliance Orders Generally
107.333 Notice of Probable Violation
107.334 Reply
107.335 Consent Order
107.336 Hearing
107.337 Presiding Officer's Decision
107.338 Compliance Order For Immediate Compliance
107.339 Appeal
107.341 Injunctions and Other Equitable Relief
107.343 Imminent Hazards
107.371 Criminal Penalties Generally
107.373 Referral for Prosecution

SUBPART E: REGISTRATION OF PERSONS WHO OFFER OR TRANSPORT HAZARDOUS MATERIALS

- Section
107.601 Incorporation by Reference of 49 CFR 107, Subpart G

APPENDIX A Standard Conditions Applicable to Exemptions, Packages, Containers, Shipments

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

SOURCE: Adopted at 3 Ill. Reg. 5, P. A1, effective February 1, 1979; amended at 3 Ill. Reg. 49, P. 273, effective December 10, 1979; amended at 6 Ill. Reg. 4287, effective April 16, 1982; codified at 8 Ill. Reg. 17979; amended at 10 Ill. Reg. 5876, effective April 1, 1986; amended at 14 Ill. Reg. 2633, effective February 1, 1990; amended at 14 Ill. Reg. 8189, effective May 15, 1990; amended at 18 Ill. Reg. 7881, effective May 6, 1994; amended at 20 Ill. Reg. 6554, effective April 30, 1996; amended at 22 Ill. Reg. 5708, effective March 4, 1998; amended at 22 Ill. Reg. 17023, effective September 30, 1998; amended at 25 Ill. Reg. _____, effective _____.

SUBPART D: ENFORCEMENT

Section 107.315 Commencement of Civil Penalty Proceeding

- a) The Department, by the Director or his authorized representative, begins a civil penalty proceeding by serving a Notice of Intent to Assess Civil Monetary Penalty, in accordance with Section 107.11, on a person charging that person with having knowingly committed an act which is a violation of one or more provisions of the IHMT.

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- b) A Notice of Intent to Assess Civil Monetary Penalty issued under this Section shall include:
1) Notice of the provision(s) of the IHMT or settlement agreement which the respondent is believed to have violated;
2) A brief description of the manner in which the respondent is believed to have violated the IHMT or settlement agreement;
3) Notice of the maximum amount of civil penalty for which the respondent may be liable;
4) Notice of the amount of the civil penalty sought to be assessed by the Department; pursuant to 92 Ill. Adm. Code 401;
5) A description of the manner in which the respondent shall make payment in accordance with Section 107.317 of any money to the State;
6) A statement that the respondent may request a conference with the Department, by verbal or written request to the Director, to review and discuss the alleged violation and civil penalty, and of the procedures for requesting a conference; and
7) A statement that if a settlement cannot be reached within 90 days, a Notice of Probable Violation will be served upon the respondent, and the respondent will have an opportunity for a hearing as provided by Section 11 of the Act and the IHMT; and
8) A statement that if the respondent does not reply to the Notice of Intent to Assess Civil Monetary Penalty within 30 days after its service upon the respondent, the failure of the respondent to reply constitutes a waiver of its right to appear and contest the allegations, without further notice to the respondent, and authorizes the Secretary, without further notice to the respondent, to find the facts to be as alleged in the Notice of Intent to Assess Civil Monetary Penalty and order the assessment of the civil penalty stated in the Notice.
c) In the event that the Department and the respondent do not enter a settlement agreement following service of a Notice of Intent to Assess Civil Monetary Penalty, the Department by the Director shall serve a Notice of Probable Violation on the respondent.
d) A Notice of Probable Violation issued under this Section includes:
1) A statement of the provision(s) of the IHMT or of a settlement agreement which the respondent is believed to have violated;
2) A statement of the factual allegations upon which the proposed civil penalty is being sought;
3) Notice of the maximum amount of civil penalty for which the respondent may be liable;
4) Notice of the amount of the civil penalty sought to be assessed by the Department;
5) A description of the manner in which the respondent shall make payment of any money to the State in accordance with Section 107.317;
6) A statement of respondent's right to request a hearing and the procedures for requesting a hearing in accordance with Section

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107.318; and

- 7) A statement of respondent's right to appear at the hearing and to present relevant written or oral explanations, information and materials in answer to the allegations or in mitigation of the penalty.

e) A settlement of a civil penalty proceeding may be effectuated at any time upon agreement of the parties, shall be reduced to writing by the Department and signed by the parties. Terms of the settlement may include a reduction in the amount of the proposed civil penalty, and may include training and procedural requirements agreed upon by the respondent and Department. Training and procedural requirements may be agreed upon to increase awareness of and compliance with 92 Ill. Adm. Code 107 through 180, and 397, and those portions of 49 CFR adopted by reference.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

SUBPART E: REGISTRATION OF PERSONS WHO OFFER OR TRANSPORT HAZARDOUS MATERIALS

Section 107.601 Incorporation by Reference of 49 CFR 107, Subpart G

a) 49 CFR 107, subpart G is hereby incorporated by reference as that subpart of the Hazardous Materials Transportation Regulations was in effect on October 1, 2000 #997. No later amendments to or editions of 49 CFR 107, subpart G are incorporated.

b) The following interpretations of, additions to and deletions from 49 CFR 107, subpart G shall apply for the purposes of this Subpart.

- 1) Any reference to "this Part" in the incorporated material shall mean 92 Ill. Adm. Code 107.
- 2) Any reference to "this Chapter" or "this Subchapter" in the incorporated material shall mean 92 Ill. Adm. Code: Chapter I, Subchapter C.
- 3) Any reference to a section in the incorporated material shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Shippers General Requirements for Shipments and Packagings

Code Citation: 92 Ill. Adm. Code 173

Section Numbers: 173.3000
Proposed Action: Amend

- 4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

5) A complete description of the subjects and issues involved: By this Notice, the Department is proposing to update the incorporation by reference date of 49 CFR 173 to the October 1, 2000 edition that is the most recent edition of the CFR. This proposed rulemaking includes the federal rulemaking adopted at 65 FR 60382, October 11, 2000.

The following summaries provide a description of federal rulemakings that are applicable to this Part, that became effective since October 1, 1997 and that are included in the October 1, 2000 edition of the CFR.

Docket HM-169B (63 FR 48566, September 10, 1998) Removes regulations on "Radiation Protection Program" and related modal provisions that require persons who offer, accept for transportation, or transport radioactive materials to develop and maintain a written radiation program.

Docket HM-1890 (63 FR 52844, October 1, 1998) Corrects editorial errors, makes minor regulatory changes, and improves the clarity of certain provisions in the Hazardous Materials Regulations (HMR).

Docket HM-215C (64 FR 10742, March 5, 1999) Amends the HMR to maintain alignment with international standards by incorporating changes to proper shipping names, hazards classes, packing groups, special provisions, and packaging authorizations. Also eliminates the "Keep Away From Food" label for poisonous materials in Division 6.1, Packing Group III.

Docket HM-225A (64 FR 28030, May 24, 1999) Revised regulations applicable to the transportation and unloading of liquefied compressed gases. The revisions include new inspection, maintenance, and testing requirements for cargo tank discharge systems, including delivery hose assemblies, and revised attendance requirements. Also revised the requirements for cargo tank emergency discharge control equipment.

Docket HM-215C (64 FR 44426, August 16, 1999) Corrects minor errors in the March 5, 1999 final rule.

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Docket HM-189P (64 FR 51912, September 27, 1999) Corrects editorial errors, makes minor regulatory changes, and improves the clarity of certain provisions in the HMR.

Docket HM-218 (65 FR 50450, August 18, 2000) Incorporates miscellaneous changes based on petitions for rulemaking and RSPA initiatives. This rulemaking updates, clarifies and improves regulatory requirements and provides relief from certain requirements where feasible.

Docket HM-189Q (65 FR 58614, September 29, 2000) Corrects editorial errors, makes minor regulatory changes and improves the clarity of certain provisions in the regulations.

Additionally, the Department's regulations will incorporate changes made in the following Docket:

Docket HM-189Q (65 FR 60382, October 11, 2000) Corrects the final rule of September 29, 2000.

Finally, two Agency Notes have been added at Section 173.3000 to clarify requirements that were in effect in Illinois prior to January 1, 1981. These requirements reference the transportation of anhydrous ammonia in MC-330 and MC-331 cargo tanks and the transportation of liquefied petroleum gas in non-specification cargo tanks.

6) Will this proposed rulemaking replace an emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? Yes

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking will not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail:

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety

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P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

By Messenger or Inter-Agency Mail:

DOT Annex Building
3215 Executive Park Drive
Commercial Vehicle Safety, 3rd Floor
Springfield, Illinois

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764
(217) 782-3215

Comments received within 45 days after the date after publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: This rulemaking affects small businesses that transport placarded hazardous materials.

B) Reporting, bookkeeping or other procedures required for compliance: No additional requirements are necessary for compliance.

C) Types of professional skills necessary for compliance: No additional skills are necessary for compliance.

13) Regulatory Agenda on which this rulemaking was summarized: July 2000

The full text of these Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION

CHAPTER I: DEPARTMENT OF TRANSPORTATION

SUBCHAPTER C: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

PART 173

SHIPPER'S GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

Section
173.2000 General
173.3000 Incorporation by Reference of 49 CFR 173

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

SOURCE: Adopted at 3 Ill. Reg. 5, P. Al, effective February 1, 1979; amended at 4 Ill. Reg. 30, P. 1244, effective July 10, 1980; amended at 5 Ill. Reg. 1715, effective February 9, 1981; amended at 6 Ill. Reg. 4287, effective April 16, 1982; amended at 6 Ill. Reg. 10036, effective August 2, 1982; amended at 7 Ill. Reg. 3486, effective April 12, 1983; codified at 8 Ill. Reg. 20015; Part repealed, new Part adopted at 10 Ill. Reg. 5886, effective April 1, 1986; amended at 10 Ill. Reg. 20764, effective December 1, 1986; amended at 11 Ill. Reg. 4781, effective March 10, 1987; amended at 11 Ill. Reg. 17898, effective October 20, 1987; amended at 12 Ill. Reg. 8089, effective April 26, 1988; amended at 13 Ill. Reg. 3998, effective March 14, 1989; amended at 14 Ill. Reg. 2651, effective February 1, 1990; amended at 15 Ill. Reg. 7765, effective May 7, 1991; amended at 16 Ill. Reg. 11856, effective July 13, 1992; amended at 18 Ill. Reg. 7895, effective May 6, 1994; amended at 20 Ill. Reg. 6560, effective April 30, 1996; amended at 22 Ill. Reg. 5720, effective March 4, 1998; amended at 22 Ill. Reg. 17028, effective September 30, 1998; amended at 25 Ill. Reg. _____, effective _____.

Section 173.3000 Incorporation by Reference of 49 CFR 173

- a) As Part 173 of the Illinois Hazardous Materials Transportation Regulations, the Department incorporates 49 CFR 173 by reference, as that Part of the federal hazardous materials transportation regulations was in effect on October 1, 2000; as amended at 65 FR 60382, October 11, 2000 1997; as amended at 63 FR 18847, January 12, 1998; as amended at 63 FR 8346, February 18, 1998; and as amended at 63 FR 37454, July 10, 1998, subject only to the exceptions in subsection (b) of this Section. No later amendments to or editions of 49 CFR 173 are incorporated.
- b) The following interpretations of, additions to and deletions from 49 CFR 173 shall apply for purposes of this Part.
- 1) All references to "this part" in the incorporated federal regulations shall mean Part 173 of the Illinois Hazardous Materials Transportation Regulations.
 - 2) All references to "this chapter" or "this subchapter" in the

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incorporated federal regulations shall mean 92 Ill. Adm. Code: Chapter I, Subchapter C.

- 3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations.
- 4) All references to parts 174, 175 or 176 or to sections therein shall be read to refer to those parts or sections in the federal hazardous materials transportation regulations.
- 5) All references to shipment of hazardous materials by air, water and rail are incorporated for reference purposes only for those persons contemplating intermodal movements of hazardous materials.
- 6) Any changes to 49 CFR 173 made effective by U.S. DOT Rulemaking Docket HM-187 (49 FR 21933 (May 24, 1984)) covering small arms ammunition are not incorporated.
- 7) 49 CFR 173.8(d)(3) is not incorporated by reference and is replaced by the following:
A non-specification metal tank having a capacity of less than 450 liters (119 gallons) is authorized in Illinois for the transportation of flammable liquid petroleum products by an intrastate motor carrier subject to the following conditions:
A) Containers shall be tanks constructed of 18 gauge or heavier steel or equivalent gauge aluminum.
B) Tanks shall be securely fastened to prevent separation from the vehicle.
C) Tanks shall be electrically bonded to the frame of the vehicle.
D) Tanks shall be protected against leakage or damage in the event of a turnover.
E) Tanks may not be drained by gravity. Top mounted pumps must be designed and labeled for use with flammable and combustible liquids. No top mounted pump shall be higher than the highest point of the vehicle or permanently attached appurtenances (i.e., roll bars).
F) Flammable liquid petroleum products being transported on a single vehicle may not exceed 450 liters (119 gallons).
G) Flammable liquid petroleum product is offered for transportation and transported in conformance with all other applicable requirements of this Subchapter.

AGENCY NOTE: To clarify the provisions of 49 CFR 173.315(a) Note 17 (7), the transportation of anhydrous ammonia was permitted within Illinois prior to January 1, 1981 as follows: Only specifications MC-330 and MC-331 cargo tanks with a design pressure of 250 P.S.I.g., that have been in anhydrous ammonia service in Illinois prior to February 1, 1979, may continue in such service subject to continued qualification as required by all design and testing requirements specified by 49 CFR 180. Non-specification cargo tanks, other than nurse tanks (49 CFR 173.314(m)),

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are not authorized in Illinois for anhydrous ammonia service. All specifications MC-330 and MC-331 cargo tanks placed in such service after February 1, 1979 must meet all requirements for the specification including a minimum design service of 265 p.s.i.g.

AGENCY NOTE: To clarify the provisions of 49 CFR 173.315(k)(6), the transportation of liquefied petroleum gas within Illinois prior to January 1, 1981 was as follows: Non-specification cargo tanks used to transport liquefied petroleum gas were not authorized for intrastate transportation within Illinois prior to January 1, 1981.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Specifications for Packagings
- 2) Code Citation: 92 Ill. Adm. Code 178
- 3) Section Numbers: 178.2000
Proposed Action: Amendment
- 4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].
- 5) A complete description of the subjects and issues involved: By this Notice, the Department is proposing to update the incorporation by reference date of 49 CFR 178 to the October 1, 2000 edition, the most recent edition of the CFR.

The following summaries provide a description of federal rulemakings that are applicable to this Part, that became effective since October 1, 1997 and that are included in the October 1, 2000 edition of the Code of Federal Regulations (CFR).

Docket HM-1890 (63 FR 52844, October 1, 1998) Corrects editorial errors, makes minor regulatory changes, and improves the clarity of certain provisions in the hazardous materials regulations.

Docket HM-215C (64 FR 10742, March 5, 1999) Amends the Hazardous Materials Regulations (HMR) to maintain alignment with international standards by incorporating changes to proper shipping names, hazard classes, packing groups, special provisions, and packaging authorizations. Also eliminates the "Keep Away From Food" label for poisonous materials in Division 6.1, Packing Group III.

Docket HM-225A (64 FR 28030, May 24, 1999) Revised regulations applicable to the transportation and unloading of liquefied compressed gases. The revisions include new inspection, maintenance, and testing requirements for cargo tank discharge systems, including delivery hose assemblies, and revised attendance requirements. Also, revised the requirements for cargo tank emergency discharge control equipment.

Docket HM-189P (64 FR 51912, September 27, 1999) Corrects editorial errors, makes minor regulatory changes and improves the clarity of certain provisions in the HMR.

Docket HM-218 (65 FR 50450, August 18, 2000) Incorporates miscellaneous changes based on petitions for rulemaking and RSPA initiatives. This rulemaking updates, clarifies and improves

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regulatory requirements and provides relief from certain requirements where feasible.

Docket HM-1890 (65 FR 58614, September 29, 2000) Corrects editorial errors, makes minor regulatory changes and improves the clarity of certain provisions in the regulations.

- 6) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? Yes
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking will not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail:

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

By Messenger or Inter-Agency Mail:

DOT Annex Building
3215 Executive Park Drive
Commercial Vehicle Safety, 3rd Floor
Springfield, Illinois

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764
(217) 782-3215

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Comments received within 45 days after the date after publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses affected: This rulemaking affects small businesses that transport placarded hazardous materials.
- B) Reporting, bookkeeping or other procedures required for compliance: No additional requirements are necessary for compliance.
- C) Types of professional skills necessary for compliance: No additional skills are necessary for compliance.

- 13) Regulatory Agenda on which this rulemaking was summarized: July 2000

The full text of this Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION

CHAPTER I: DEPARTMENT OF TRANSPORTATION

SUBCHAPTER C: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

PART 178

SPECIFICATIONS FOR PACKAGINGS

Specification MC 300; Cargo Tanks Constructed of Mild (Open Hearth or Blue Annealed) Steel, or Combination of Mild Steel with High Tensile Steel, or Stainless Steel, Primarily For the Transportation of Flammable Liquids or Poisonous Liquids, Class B

Section

178.321

178.321.0.1

178.321.0.2

178.321.0.3

178.321.0.4

178.321.0.5

178.321.0.6

178.321.0.7

178.321.0.8

178.321.0.9

178.321.1.0

178.321.1.1

178.321.1.2

178.321.1.3

178.321.1.4

178.321.1.5

178.321.1.6

178.321.1.7

178.321.1.8

178.322

178.322.0.1

178.322.0.3

178.322.0.5

178.322.0.9

178.322.1.1

178.322.1.2

178.322.1.3

178.322.1.4

178.322.1.7

178.322.1.8

178.322.1.9

178.322.2.0

178.322.2.1

178.322.2.2

178.322.2.3

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TITLE 92: TRANSPORTATION

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PART 178

SPECIFICATIONS FOR PACKAGINGS

Specification MC 300; Cargo Tanks Constructed of Mild (Open Hearth or Blue Annealed) Steel, or Combination of Mild Steel with High Tensile Steel, or Stainless Steel, Primarily For the Transportation of Flammable Liquids or Poisonous Liquids, Class B

Section

178.321

178.321.0.1

178.321.0.2

178.321.0.3

178.321.0.4

178.321.0.5

178.321.0.6

178.321.0.7

178.321.0.8

178.321.0.9

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178.322

178.322.0.1

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178.322.0.8

178.322.0.9

178.322.1.0

178.322.1.1

178.322.1.2

178.322.1.3

178.322.1.4

178.322.1.5

178.322.2.4	[178.322-24] Overturn Protection	[178.322-24] Overturn Protection
178.323	Specification MC 302; Cargo Tanks Constructed of Welded Aluminum Alloy (ASPM B209-57T), Primarily For the Transportation of Flammable Liquids, or Poisonous Liquids, Class B	Specification MC 302; Cargo Tanks Constructed of Welded Aluminum Alloy (ASPM B209-57T), Primarily For the Transportation of Flammable Liquids, or Poisonous Liquids, Class B
178.323.0.1	[178.323-1] General Requirements	[178.323-1] General Requirements
178.323.0.2	[178.323-2] Material	[178.323-2] Material
178.323.0.3	[178.323-3] Thickness of Metal	[178.323-3] Thickness of Metal
178.323.0.4	[178.323-4] Joints	[178.323-4] Joints
178.323.0.5	[178.323-5] Bulkheads, Baffles, and Ring Stiffeners	[178.323-5] Bulkheads, Baffles, and Ring Stiffeners
178.323.0.6	[178.323-6] Closures for Manholes	[178.323-6] Closures for Manholes
178.323.0.7	[178.323-7] Overturn Protection	[178.323-7] Overturn Protection
178.323.0.8	[178.323-8] Tank Outlets	[178.323-8] Tank Outlets
178.323.0.9	[178.323-9] Vents, Valves, and Connections	[178.323-9] Vents, Valves, and Connections
178.323.1.0	[178.323-10] Protection of Fittings	[178.323-10] Protection of Fittings
178.323.1.1	[178.323-11] Emergency Discharge Control	[178.323-11] Emergency Discharge Control
178.323.1.2	[178.323-12] Shear Section	[178.323-12] Shear Section
178.323.1.3	[178.323-13] Anchoring of Tank	[178.323-13] Anchoring of Tank
178.323.1.4	[178.323-14] Gauging Devices	[178.323-14] Gauging Devices
178.323.1.5	[178.323-15] Pumps	[178.323-15] Pumps
178.323.1.6	[178.323-16] Testing Requirements	[178.323-16] Testing Requirements
178.323.1.7	[178.323-17] Marking of Cargo Tanks	[178.323-17] Marking of Cargo Tanks
178.323.1.8	[178.323-18] Certification	[178.323-18] Certification
178.324	Specification MC 303; Cargo Tanks Constructed of Welded Ferrous Alloy (High-Tensile Steel), or Stainless Steel, Primarily For the Transportation of Flammable Liquids, or Poisonous Liquids, Class B	Specification MC 303; Cargo Tanks Constructed of Welded Ferrous Alloy (High-Tensile Steel), or Stainless Steel, Primarily For the Transportation of Flammable Liquids, or Poisonous Liquids, Class B
178.324.0.1	[178.324-1] General Requirements	[178.324-1] General Requirements
178.324.0.2	[178.324-2] Material	[178.324-2] Material
178.324.0.3	[178.324-3] Thickness of Metal	[178.324-3] Thickness of Metal
178.324.0.4	[178.324-4] Joints	[178.324-4] Joints
178.324.0.5	[178.324-5] Bulkheads, Baffles, and Ring Stiffeners	[178.324-5] Bulkheads, Baffles, and Ring Stiffeners
178.324.0.6	[178.324-6] Closures for Manholes	[178.324-6] Closures for Manholes
178.324.0.7	[178.324-7] Overturn Protection	[178.324-7] Overturn Protection
178.324.0.8	[178.324-8] Outlets	[178.324-8] Outlets
178.324.0.9	[178.324-9] Vents, Valves, and Connections	[178.324-9] Vents, Valves, and Connections
178.324.1.0	[178.324-10] Protection of Fittings	[178.324-10] Protection of Fittings
178.324.1.1	[178.324-11] Emergency Discharge Control	[178.324-11] Emergency Discharge Control
178.324.1.2	[178.324-12] Shear Section	[178.324-12] Shear Section
178.324.1.3	[178.324-13] Anchoring of Tank	[178.324-13] Anchoring of Tank
178.324.1.4	[178.324-14] Gauging Devices	[178.324-14] Gauging Devices
178.324.1.5	[178.324-15] Pumps	[178.324-15] Pumps
178.324.1.6	[178.324-16] Testing Requirements	[178.324-16] Testing Requirements
178.324.1.7	[178.324-17] Marking of Cargo Tanks	[178.324-17] Marking of Cargo Tanks
178.324.1.8	[178.324-18] Certification	[178.324-18] Certification
178.325	Specification MC 304; Cargo Tanks Constructed of Mild (Open Hearth or Blue Annealed) Steel, Welded Ferrous Alloy (High-Tensile) Steel, or Aluminum, Primarily For the Transportation of Flammable Liquids, or Poisonous Liquids, Class B	Specification MC 304; Cargo Tanks Constructed of Mild (Open Hearth or Blue Annealed) Steel, Welded Ferrous Alloy (High-Tensile) Steel, or Aluminum, Primarily For the Transportation of Flammable Liquids, or Poisonous Liquids, Class B

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

- B, Having Reid (ASTM D-323) Vapor Pressures of 18 PSIA or More at 100 degrees F., But Less Than Those Stated in 92 Ill. Adm. Code 173.300, In Defining Compressed Gases
- [178.325-1] General Requirements
- [178.325-2] Material
- [178.325-3] Thickness of Metal
- [178.325-4] Joints
- [178.325-5] Bulkheads, Baffles, and Ring Stiffeners
- [178.325-6] Closures for Manholes
- [178.325-7] Overturb Protection
- [178.325-8] Tank Outlets
- [178.325-9] Safety Relief Devices, Valves, and Connections
- [178.325-10] Protection of Fittings
- [178.325-11] Emergency Discharge Control
- [178.325-12] Shear Section
- [178.325-13] Anchoring of Cargo Tank
- [178.325-14] Gauging Devices
- [178.325-15] Pumps
- [178.325-16] Testing Requirements
- [178.325-17] Marking of Cargo Tanks
- [178.325-18] Certification
- Specification MC 305; Cargo Tanks Constructed of Aluminum Alloys for High-Strength Welded Construction, Primarily For the Transportation of Flammable Liquids, or Poisonous Liquids, Class B
- [178.326-1] General Requirements
- [178.326-2] Material
- [178.326-3] Thickness of Sheets
- [178.326-4] Joints
- [178.326-5] Bulkheads, Baffles, and Ring Stiffeners
- [178.326-6] Closures for Manholes
- [178.326-7] Overturb Protection
- [178.326-8] Tank Outlets
- [178.326-9] Vents, Valves, and Connections
- [178.326-10] Protection of Fittings
- [178.326-11] Emergency Discharge Control
- [178.326-12] Shear Section
- [178.326-13] Anchoring of Cargo Tank
- [178.326-14] Gauging Devices
- [178.326-15] Pumps
- [178.326-16] Testing Requirements
- [178.326-17] Marking of Cargo Tanks
- [178.326-18] Certification
- Specification MC 310; Cargo Tanks Constructed of Ferrous Materials, Primarily For the Transportation of Corrosive Liquids
- [178.330-1] General Requirements
- [178.330-2] Material
- [178.330-3] Thickness of Metal

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- [178.330-4] Joints
- [178.330-5] Bulkheads, Baffles, and Ring Stiffeners, Tank Supports, and Compartmentation
- [178.330-6] Closures for Manholes
- [178.330-7] Overturb Protection
- [178.330-8] Outlets
- [178.330-9] Vents, Valves, and Connections
- [178.330-10] Protection of Fittings
- [178.330-11] Emergency Discharge Control
- [178.330-12] Shear Section
- [178.330-13] Anchoring of Tank
- [178.330-14] Gauging Devices
- [178.330-15] Pumps and Compressors
- [178.330-16] Testing Requirements
- [178.330-17] Marking of Cargo Tanks
- [178.330-18] Certification
- Specification MC 311; Cargo Tanks Constructed of Ferrous Metals or Aluminum, Primarily For the Transportation of Corrosive Liquids
- [178.331-1] General Requirements
- [178.331-2] Material
- [178.331-3] Thickness of Metal
- [178.331-4] Joints
- [178.331-5] Bulkheads, Baffles, and Ring Stiffeners, Tank Supports, and Compartmentation
- [178.331-6] Closures for Manholes
- [178.331-7] Overturb Protection
- [178.331-8] Outlets
- [178.331-9] Vents, Valves, and Connections
- [178.331-10] Protection of Fittings
- [178.331-11] Emergency Discharge Control
- [178.331-12] Shear Section
- [178.331-13] Anchoring of Tank
- [178.331-14] Gauging Devices
- [178.331-15] Pumps and Compressors
- [178.331-16] Testing Requirements
- [178.331-17] Marking of Cargo Tanks
- [178.331-18] Certification
- Specification MC 330; Cargo Tanks Constructed of Steel, Primarily For Transportation of Compressed Gases
- [178.336-1] General Requirements
- [178.336-2] Material
- [178.336-3] Thickness of Metal
- [178.336-4] Joints
- [178.336-5] Bulkheads, Baffles, and Ring Stiffeners
- [178.336-6] Closures for Manholes
- [178.336-7] Overturb Protection
- [178.336-8] Outlets

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178.336-0.9 [178.336-9] Safety Relief Devices, Valves, and Connections
 178.336-1.0 [178.336-10] Protection of Fittings
 178.336-1.1 [178.336-11] Emergency Discharge Control
 178.336-1.2 [178.336-12] Shear Section
 178.336-1.3 [178.336-13] Anchoring of Cargo Tank
 178.336-1.4 [178.336-14] Gauging Devices
 178.336-1.5 [178.336-15] Pumps and Compressors
 178.336-1.6 [178.336-16] Testing Requirements
 178.336-1.7 [178.336-17] Marking of Cargo Tanks
 178.336-1.8 [178.336-18] Certification
 178.337 Specification MC 331; Cargo Tanks Constructed of Steel, Primarily For Transportation of Compressed Gases, As Defined in the Compressed Gas Section (Repealed)
 178.337-0.1 [178.337-1] General Requirements (Repealed)
 178.337-0.2 [178.337-2] Material (Repealed)
 178.337-0.3 [178.337-3] Thickness of Tank Metal (Repealed)
 178.337-0.4 [178.337-4] Joints (Repealed)
 178.337-0.5 [178.337-5] Bulkheads, Baffles, and Ring Stiffeners (Repealed)
 178.337-0.6 [178.337-6] Closure for Manhole (Repealed)
 178.337-0.7 [178.337-7] Overturn Protection (Repealed)
 178.337-0.8 [178.337-8] Outlets (Repealed)
 178.337-0.9 [178.337-9] Safety Relief Devices, Valves, and Connections (Repealed)
 178.337-1.0 [178.337-10] Protection of Fittings (Repealed)
 178.337-1.1 [178.337-11] Emergency Discharge Control (Repealed)
 178.337-1.2 [178.337-12] Shear Section (Repealed)
 178.337-1.3 [178.337-13] Supporting and Anchoring (Repealed)
 178.337-1.4 [178.337-14] Gauging Devices (Repealed)
 178.337-1.5 [178.337-15] Pumps and Compressors (Repealed)
 178.337-1.6 [178.337-16] Testing (Repealed)
 178.337-1.7 [178.337-17] Marking (Repealed)
 178.337-1.8 [178.337-18] Certification (Repealed)
 178.340 General Design and Construction Requirements Applicable to Specifications MC 306 (Section 178.341), MC 307 (Section 178.342), and MC 312 (Section 178.343) Cargo Tanks (Repealed)
 178.340-0.1 [178.340-1] Specification Requirements For MC 306, MC 307, and MC 312 Cargo Tanks (Repealed)
 178.340-0.2 [178.340-2] General Requirements (Repealed)
 178.340-0.3 [178.340-3] Material (Repealed)
 178.340-0.4 [178.340-4] Structural Integrity (Repealed)
 178.340-0.5 [178.340-5] Joints (Repealed)
 178.340-0.6 [178.340-6] Supports and Anchoring (Repealed)
 178.340-0.7 [178.340-7] Circumferential Reinforcements (Repealed)
 178.340-0.8 [178.340-8] Accident Damage Protection (Repealed)
 178.340-0.9 [178.340-9] Pumps (Repealed)
 178.340-1.0 [178.340-10] Certification (Repealed)
 178.341 Specification MC 306; Cargo Tanks (Repealed)
 178.341-0.1 [178.341-1] General Requirements (Repealed)

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178.341-0.2 [178.341-2] Thickness of Shells, Heads, Bulkheads, and Baffles (Repealed)
 178.341-0.3 [178.341-3] Closures for Fill Openings and Manholes (Repealed)
 178.341-0.4 [178.341-4] Vents (Repealed)
 178.341-0.5 [178.341-5] Emergency Flow Control (Repealed)
 178.341-0.6 [178.341-6] Gauging Devices (Repealed)
 178.341-0.7 [178.341-7] Method of Test (Repealed)
 178.342 Specification MC 307; Cargo Tanks (Repealed)
 178.342-0.1 [178.342-1] General Requirements (Repealed)
 178.342-0.2 [178.342-2] Thickness of Shell, Heads, Bulkheads, and Baffles (Repealed)
 178.342-0.3 [178.342-3] Closures for Manholes (Repealed)
 178.342-0.4 [178.342-4] Vents (Repealed)
 178.342-0.5 [178.342-5] Outlets (Repealed)
 178.342-0.6 [178.342-6] Gauging Devices (Repealed)
 178.342-0.7 [178.342-7] Method of Test (Repealed)
 178.343 Specification MC 312; Cargo Tanks (Repealed)
 178.343-0.1 [178.343-1] General Requirements (Repealed)
 178.343-0.2 [178.343-2] Thickness of Shell, Heads, Bulkheads, and Baffles of Non-Asme Code Tanks (Repealed)
 178.343-0.3 [178.343-3] Closures for Manholes (Repealed)
 178.343-0.4 [178.343-4] Vents (Repealed)
 178.343-0.5 [178.343-5] Outlets (Repealed)
 178.343-0.6 [178.343-6] Gauging Devices (Repealed)
 178.343-0.7 [178.343-7] Method of Test (Repealed)
 178.350 Specification 7A; General Packaging, Type A (Repealed)
 178.350-0.1 [178.350-1] General Requirements (Repealed)
 178.350-0.2 [178.350-2] Specific Requirements (Repealed)
 178.350-0.3 [178.350-3] Marking (Repealed)
 178.1000 General
 178.2000 Incorporation by Reference of 49 CFR 178

APPENDIX C Tensile Specimen
 APPENDIX D Material Thickness (Repealed)
 TABLE A Minimum Thickness of Heads, Bulkheads, and Baffles (Repealed)
 TABLE B Minimum Thickness of Shell Sheets (Repealed)

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

SOURCE: Adopted at 3 Ill. Reg. 5, p. A1, effective February 1, 1979; amended at 5 Ill. Reg. 1715, effective February 9, 1981; amended at 6 Ill. Reg. 10036, effective August 2, 1982; amended at 8 Ill. Reg. 19640, effective October 1, 1984; codified at 8 Ill. Reg. 20047; amended at 8 Ill. Reg. 20064, effective October 1, 1984; amended at 10 Ill. Reg. 5897, effective April 1, 1986; amended at 10 Ill. Reg. 20770, effective December 1, 1986; amended at 11 Ill. Reg. 4786, effective March 10, 1987; amended at 11 Ill. Reg. 17904, effective October 20, 1987; amended at 12 Ill. Reg. 8093, effective April 26, 1988;

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amended at 13 Ill. Reg. 4004, effective March 14, 1989; amended at 14 Ill. Reg. 2640, effective February 1, 1990; amended at 15 Ill. Reg. 7771, effective May 7, 1991; amended at 16 Ill. Reg. 11863, effective July 13, 1992; amended at 18 Ill. Reg. 7901, effective May 6, 1994; amended at 20 Ill. Reg. 6566, effective April 30, 1996; amended at 22 Ill. Reg. 5726, effective March 4, 1998; amended at 22 Ill. Reg. 17032, effective September 30, 1998; amended at 25 Ill. Reg. _____, effective _____.

AGENCY NOTE: In reading this Part it is necessary to read Sections 178.1000 and 178.2000 prior to reading the remaining Sections in numerical order.

Section 178.2000 Incorporation by Reference of 49 CFR 178

- a) As Part 178 of the Illinois Hazardous Materials Transportation Regulations, the Department incorporates 49 CFR 178 by reference, as that Part of the federal hazardous materials transportation regulations was in effect on October 1, 2000 ~~1997; and as amended at 63--PR--37454,--July--30,--1998~~, subject only to the exceptions in subsection (f) of this Section. No later amendments to or editions of 49 CFR 178 are incorporated.
- b) As Section 178.340 of the Illinois Hazardous Materials Transportation Regulations, the Department hereby incorporates 49 CFR 178.340 as that section of the federal hazardous materials transportation regulations was in effect on October 1, 1989.
- c) As Section 178.341 of the Illinois Hazardous Materials Transportation Regulations, the Department hereby incorporates 49 CFR 178.341 as that section of the federal hazardous materials transportation regulations was in effect on October 1, 1989.
- d) As Section 178.342 of the Illinois Hazardous Materials Transportation Regulations, the Department hereby incorporates 49 CFR 178.342 as that section of the federal hazardous materials transportation regulations was in effect on October 1, 1989.
- e) As Section 178.343 of the Illinois Hazardous Materials Transportation Regulations, the Department hereby incorporates 49 CFR 178.343 as that section of the federal hazardous materials transportation regulations was in effect on October 1, 1989.
- f) The following interpretations of, additions to and deletions from the 49 CFR 178 shall apply for purposes of this Part.
 - 1) All references to "this part" in the incorporated federal regulations shall mean Part 178 of the Illinois Hazardous Materials Transportation Regulations.
 - 2) All references to "this chapter" or "this subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code: Chapter I, Subchapter c.
 - 3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations.

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NOTICE OF PROPOSED AMENDMENTS

- 4) All references to part **parte** 174, 175 or 176, or to sections therein shall be read to refer to those parts or sections in the federal hazardous materials transportation regulations.
- (Source: Amended at 25 Ill. Reg. _____, effective _____)

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Specifications for Tank Cars
- 2) Code Citation: 92 Ill. Adm. Code 179
- 3) Section Numbers:
179.2000
Proposed Action:
Amend
- 4) Statutory Authority: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].
- 5) A complete description of the subjects and issues involved: By this Notice, the Department is proposing to update the incorporation by reference date of 49 CFR 179 to the October 1, 2000 edition, the most recent edition of the CFR.

The following summaries provide a description of federal rulemakings that are applicable to this part, that became effective since October 1, 1997 and that are included in the October 1, 2000 edition of the Code of Federal Regulations (CFR).

Docket HM-1890 (63 FR 52844, October 1, 1998) Corrects editorial errors, makes minor regulatory changes, and improves the clarity of certain provisions in the Hazardous Materials Regulations (HMR).

Docket HM-1899 (64 FR 51912, September 27, 1999) Corrects editorial errors, makes minor regulatory changes, and improves the clarity of certain provisions in the HMR.

Docket HM-218 (65 FR 50450, August 18, 2000) Incorporates miscellaneous changes based on petitions for rulemaking and RSPA initiatives. This rulemaking updates, clarifies and improves regulatory requirements and provides relief from certain requirements where feasible.

Docket HM-1890 (65 FR 58614, September 29, 2000) Corrects editorial errors, makes minor regulatory changes and improves the clarity of certain provisions in the regulations.
- 6) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? Yes
- 9) Are there any other amendments pending on this Part? No

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

- 10) Statement of Statewide Policy Objectives: This rulemaking will not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rule. Written submissions shall be filed with:

By U.S. Mail:

Ms. Catherine Allen
Illinois Department of Transportation
Division of Traffic Safety
P.O. Box 19212
Springfield, Illinois 62794-9212
(217) 785-1181

By Messenger or Inter-Agency Mail:

DOT Annex Building
3215 Executive Park Drive
Commercial Vehical Safety; 3rd Floor
Springfield, Illinois

JCAR requests, comments and concerns regarding this rulemaking should be addressed to:

Ms. Christine Caronna-Beard, Rules Manager
Illinois Department of Transportation
2300 South Dirksen Parkway, Room 311
Springfield, Illinois 62764
(217) 782-3215

Comments received within 45 days after the date after publication of this Illinois Register will be considered. Comments received after that time will be considered, time permitting.
- 12) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses affected: This rulemaking affects small businesses that transport placarded hazardous materials.
 - B) Reporting, bookkeeping or other procedures required for compliance:
No additional requirements are necessary for compliance.
 - C) Types of professional skills necessary for compliance: No additional skills are necessary for compliance.

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NOTICE OF PROPOSED AMENDMENTS

13) Regulatory Agenda on which this rulemaking was summarized: July 2000

The full text of these Proposed Amendments begins on the next page:

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER I: DEPARTMENT OF TRANSPORTATION
SUBCHAPTER c: HAZARDOUS MATERIALS TRANSPORTATION REGULATIONS

PART 179
SPECIFICATIONS FOR TANK CARS

Section

179.1000 General

179.2000 Incorporation By Reference of 49 CFR 179

AUTHORITY: Implementing Section 4(a) and authorized by Section 9(a) of the Illinois Hazardous Materials Transportation Act [430 ILCS 30/4(a) and 9(a)].

SOURCE: Adopted at 3 Ill. Reg. 5, p. A1, effective February 1, 1979; amended at 6 Ill. Reg. 4287, effective April 16, 1982; old rules repealed, new rules adopted and codified at 8 Ill. Reg. 19677, effective October 1, 1984; amended at 10 Ill. Reg. 5909, effective April 1, 1986; amended at 10 Ill. Reg. 20824, effective December 1, 1986; amended at 11 Ill. Reg. 4796, effective March 10, 1987; amended at 11 Ill. Reg. 17915, effective October 20, 1987; amended at 12 Ill. Reg. 8102, effective April 26, 1988; amended at 15 Ill. Reg. 7781, effective May 7, 1991; amended at 16 Ill. Reg. 11875, effective July 13, 1992; amended at 18 Ill. Reg. 7912, effective May 6, 1994; amended at 20 Ill. Reg. 6577, effective April 30, 1996; amended at 22 Ill. Reg. 5736, effective March 4, 1998; amended at 22 Ill. Reg. 17042, effective September 30, 1998; amended at 25 Ill. Reg. _____, effective _____.

Section 179.2000 Incorporation By Reference of 49 CFR 179

a) As Part 179 of the Illinois Hazardous Materials Transportation Regulations, the Department incorporates the following sections of 49 CFR 179 by reference, as those sections of the federal hazardous materials transportation regulations were in effect on October 1, 2000 1997, subject only to the exceptions in subsection (b) of this Section. No later amendments to or editions of those sections of 49 CFR 179 of the federal regulations are incorporated.

179.1
179.2
179.5
179.6
179.7
179.10
179.11
179.12
179.16
179.18
179.20

General
Definitions and abbreviations
Certificate of Construction
Repairs and alterations
Quality Assurance program
Tank mounting
Welding certification
Interior heater systems
Tank-head puncture-resistance systems
Thermal protection systems
Service equipment; protection systems

DEPARTMENT OF TRANSPORTATION

NOTICE OF PROPOSED AMENDMENTS

- 179.22 Marking
179.300 General specifications applicable to multi-unit tank car tanks designed to be removed from car structure for filling and emptying (classes DOT-106A and 110AW)
- 179.301 Individual specification requirements for multi-unit tank car tanks
- b) The following interpretations of, additions to and deletions from the above incorporated sections of 49 CFR 179 shall apply for purposes of this Part.
- 1) All references to "this part" in the incorporated federal regulations shall mean Part 179 of the Illinois Hazardous Materials Transportation Regulations.
 - 2) All references to "this chapter" or "this subchapter" in the incorporated federal regulations shall mean 92 Ill. Adm. Code: Chapter I, Subchapter C.
 - 3) All references to a section of the regulations in the incorporated federal regulations shall be read to refer to that Section in the Illinois Hazardous Materials Transportation Regulations except references to Section 179.3 shall mean 49 CFR 179.3.
 - 4) 49 CFR 179.2(a)(4) is deleted and replaced by the following: "DOT" means the U.S. Department of Transportation and "Department" means the Illinois Department of Transportation."

(Source: Amended at 25 Ill. Reg. _____, effective _____)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3) Section Number: Adopted Action:
310.280 Amend
- 4) Statutory Authority: Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a]
- 5) Effective Date of Amendment: January 22, 2001
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposals Published in the Illinois Register: October 27, 2000, Issue #44, 24 Ill. Reg. 15486
- 10) Has JCAR issued a Statement of Objections to this amendment? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect?
No
- 14) Are there any proposed amendments pending on this Part? Yes

Section Numbers	Proposed Action	Ill. Register Citation
310.280	Amend	24 Ill. Reg. 14844
310.280	Amend	24 Ill. Reg. 15486
310. Appendix A, Table AB	Amend	24 Ill. Reg. 16151
310.290	Amend	24 Ill. Reg. 17384
310.280	Amend	25 Ill. Reg. 1037
310.270	Amend	25 Ill. Reg. 1889

- 15) Summary and Purpose of Amendment: In Section 310.280, Designated Rate, the annual salary for the Public Service Administrator position (37015-42-35-140-20-01) was increased from \$79,728 to \$82,116 at the request of the Department of Commerce and Community Affairs.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

- 16) Information and questions regarding this adopted amendment shall be directed to:

Mr. Michael Murphy
Department of Central Management Services
Division of Technical Services
504 William G. Stratton Building
Springfield, Illinois 62706
(217) 782-5601

The full text of the adopted amendment begins on the next page:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND

POSITION CLASSIFICATIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
PAY PLAN

SUBPART A: NARRATIVE

Section
310.20 Policy and Responsibilities
310.30 Jurisdiction
310.40 Pay Schedules
310.50 Definitions
310.60 Conversion of Base Salary to Pay Period Units
310.70 Conversion of Base Salary to Daily or Hourly Equivalents
310.80 Increases in Pay
310.90 Decreases in Pay
310.100 Other Pay Provisions
310.110 Implementation of Pay Plan Changes for Fiscal Year 2001
310.120 Interpretation and Application of Pay Plan
310.130 Effective Date
310.140 Reinstitution of Within Grade Salary Increases (Repealed)
310.150 Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, Effective July 1, 1984 (Repealed)

SUBPART B: SCHEDULE OF RATES

Section
310.205 Introduction
310.210 Prevailing Rate
310.220 Negotiated Rate
310.230 Part-Time Daily or Hourly Special Services Rate
310.240 Hourly Rate
310.250 Member, Patient and Inmate Rate
310.260 Trainee Rate
310.270 Legislated and Contracted Rate
310.280 Designated Rate
310.290 Out-of-State or Foreign Service Rate
310.300 Educator Schedule for RC-063 and HR-010
310.310 Physician Specialist Rate
310.320 Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections
310.330 Excluded Classes Rate (Repealed)

SUBPART C: MERIT COMPENSATION SYSTEM

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

Section	
310.410	Jurisdiction
310.420	Objectives
310.430	Responsibilities
310.440	Merit Compensation Salary Schedule
310.450	Procedures for Determining Annual Merit Increases
310.455	Intermittent Merit Increase
310.456	Merit Zone (Repealed)
310.460	Other Pay Increases
310.470	Adjustment
310.480	Decreases in Pay
310.490	Other Pay Provisions
310.495	Broad-Band Pay Range Classes
310.500	Definitions
310.510	Conversion of Base Salary to Pay Period Units
310.520	Conversion of Base Salary to Daily or Hourly Equivalents
310.530	Implementation
310.540	Annual Merit Increase Guidechart for Fiscal Year 2001
310.550	Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)
APPENDIX A	
TABLE A	HR-190 (Department of Pay Negotiated Rates of Pay of Central Management Services - State of Illinois Building - SEIU)
TABLE AA	NR-916 (Department of Natural Resources, Teamsters)
TABLE B	RC-200 (Department of Labor - Chicago, Illinois - SEIU) (Repealed)
TABLE C	RC-069 (Firefighters, AFSCME) (Repealed)
TABLE D	HR-001 (Teamsters Local #726)
TABLE E	RC-020 (Teamsters Local #330)
TABLE F	RC-019 (Teamsters Local #25)
TABLE G	RC-045 (Automotive Mechanics, IFPE)
TABLE H	RC-006 (Corrections Employees, AFSCME)
TABLE I	RC-009 (Institutional Employees, AFSCME)
TABLE J	RC-014 (Clerical Employees, AFSCME)
TABLE K	RC-023 (Registered Nurses, INA)
TABLE L	RC-008 (Boilermakers)
TABLE M	RC-110 (Conservation Police Lodge)
TABLE N	RC-010 (Professional Legal Unit, AFSCME)
TABLE O	RC-028 (Paraprofessional Human Services Employees, AFSCME)
TABLE P	RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE)
TABLE Q	RC-033 (Meat Inspectors, IFPE)
TABLE R	RC-042 (Residual Maintenance Workers, AFSCME)
TABLE S	HR-012 (Fair Employment Practices Employees, SEIU)
TABLE T	HR-010 (Teachers of Deaf, IFT)
TABLE U	HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
TABLE V	CU-500 (Corrections, Meet and Confer Employees)
TABLE W	RC-062 (Technical Employees, AFSCME)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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TABLE X	RC-063 (Professional Employees, AFSCME)
TABLE Y	RC-063 (Educators, AFSCME)
TABLE Z	RC-063 (Physicians, AFSCME)
APPENDIX B	Schedule of Salary Grades - Monthly Rates of Pay for Fiscal Year 2001
APPENDIX C	Medical Administrator Rates for Fiscal Year 2001
APPENDIX D	Merit Compensation System Salary Schedule for Fiscal Year 2001
APPENDIX E	Teaching Salary Schedule (Repealed)
APPENDIX F	Physician and Physician Specialist Salary Schedule (Repealed)
APPENDIX G	Broad-Band Pay Range Classes Salary Schedule for Fiscal Year 2001

AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 3225, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 13675, effective July 31, 1986; peremptory amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; peremptory amendment at 10 Ill. Reg. 19132, effective October 28, 1986; peremptory amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill.

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Reg. 648, effective December 22, 1986; peremptory amendment at 11 Ill. Reg. 3363, effective February 3, 1987; peremptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; peremptory amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; peremptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; peremptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; peremptory amendment 11 Ill. Reg. 17919, effective October 19, 1987; peremptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; peremptory amendment at 12 Ill. Reg. 3811, effective January 27, 1988; peremptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; peremptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; peremptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; peremptory amendment at 12 Ill. Reg. 20584, effective November 28, 1988; peremptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; peremptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; peremptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; peremptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; peremptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 Ill. Reg. 16092; peremptory amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; peremptory amendment at 14 Ill. Reg. 18854, effective November 13, 1990; peremptory amendment at 15 Ill. Reg. 663,

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effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; peremptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; peremptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; peremptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; peremptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; peremptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; peremptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; peremptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; peremptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; peremptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; peremptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; peremptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; peremptory amendment at 19 Ill. Reg. 6888, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; peremptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December

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22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27, 1996, for a maximum of 150 days; peremptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; peremptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9006, effective June 26, 1996; amended at 20 Ill. Reg. 9925, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; peremptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; peremptory amendment at 20 Ill. Reg. 15092, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 15, 1997; amended at 21 Ill. Reg. 6444, effective May 15, 1997; amended at 21 Ill. Reg. 7118, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 10061, effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 12859, effective September 8, 1997, for a maximum of 150 days; peremptory amendment at 21 Ill. Reg. 14267, effective October 14, 1997; peremptory amendment at 21 Ill. Reg. 14589, effective October 15, 1997; peremptory amendment at 21 Ill. Reg. 15030, effective November 10, 1997; amended at 21 Ill. Reg. 16344, effective December 9, 1997; peremptory amendment at 21 Ill. Reg. 16465, effective December 4, 1997; peremptory amendment at 21 Ill. Reg. 17167, effective December 9, 1997; peremptory amendment at 22 Ill. Reg. 1593, effective December 22, 1997; amended at 22 Ill. Reg. 2580, effective January 14, 1998; peremptory amendment at 22 Ill. Reg. 4326, effective February 13, 1998; peremptory amendment at 22 Ill. Reg. 5108, effective February 26, 1998; peremptory amendment at 22 Ill. Reg. 5749, effective March 3, 1998; amended at 22 Ill. Reg. 6204, effective March 12, 1998; peremptory amendment at 22 Ill. Reg. 7053, effective April 1, 1998; peremptory amendment at 22 Ill. Reg. 7320, effective April 10, 1998; peremptory amendment at 22 Ill. Reg. 7692, effective April 20, 1998; emergency amendment at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days; peremptory amendment at 22 Ill. Reg. 15489, effective August 7, 1998; amended at 22 Ill. Reg. 16158, effective September 30, 1998; peremptory amendment at 22 Ill. Reg. 19105, effective September 30, 1998; peremptory amendment at 22 Ill. Reg. 19943, effective October 27, 1998; peremptory amendment at 22 Ill. Reg. 20406, effective November 5, 1998; amended at 22 Ill. Reg. 20381, effective November 16, 1998; amended at 23 Ill. Reg. 664, effective January 1, 1999; peremptory amendment at 23 Ill. Reg. 730, effective December 29, 1998; emergency amendment at 23 Ill. Reg. 6533, effective May 10, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7065, effective June 3, 1999; emergency amendment at 23 Ill. Reg. 8169, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 11020, effective August 26, 1999; amended at 23 Ill. Reg. 12429, effective September 21, 1999; peremptory amendment at 23 Ill. Reg. 12493, effective September 23, 1999; amended at 23 Ill. Reg. 12604, effective September 24, 1999; amended at 23 Ill. Reg. 13053, effective September 27, 1999; peremptory amendment at 23 Ill. Reg. 13132, effective October 1, 1999; amended at 23 Ill. Reg. 13570, effective October 26, 1999; amended at 23 Ill. Reg. 14020,

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effective November 15, 1999; amended at 24 Ill. Reg. 1025, effective January 7, 2000; peremptory amendment at 24 Ill. Reg. 3399, effective February 3, 2000; amended at 24 Ill. Reg. 3537, effective February 18, 2000; amended at 24 Ill. Reg. 6874, effective April 21, 2000; amended at 24 Ill. Reg. 7956, effective May 23, 2000; emergency amendment at 24 Ill. Reg. 10328, effective July 1, 2000, for a maximum of 150 days; peremptory amendment at 24 Ill. Reg. 10767, effective July 3, 2000; amended at 24 Ill. Reg. 13384, effective August 17, 2000; peremptory amendment at 24 Ill. Reg. 14460, effective September 14, 2000; peremptory amendment at 24 Ill. Reg. 16700, effective October 30, 2000; peremptory amendment at 24 Ill. Reg. 17600, effective November 16, 2000; amended at 24 Ill. Reg. 18058, effective December 4, 2000; peremptory amendment at 24 Ill. Reg. 18444, effective December 1, 2000; amended at 25 Ill. Reg. 811, effective January 4, 2001; amended at 25 Ill. Reg. 7344, effective

SUBPART B: SCHEDULE OF RATES

Section 310.280 Designated Rate

The rate of pay for a specific position or class of positions where it is deemed desirable to exclude such from the other requirements of this Pay Plan shall be only as designated by the Governor.

Department of Commerce & Community Affairs

Economic Development Representative II
(Pos. No. 12932-42-35-110-10-02) Annual Salary 54,048

Private Secretary II
(Pos. No. 34202-42-00-000-01-02) Annual Salary 48,492

Public Information Officer IV
(Pos. No. 37004-42-00-005-10-01) Annual Salary 64,932

Public Service Administrator
(Pos. No. 37015-42-35-140-20-01) Annual Salary 75,588

Public Service Administrator
(Pos. No. 37015-42-35-140-20-01) Annual Salary 82,116
79,728

Department of Human Services

Medical Administrator I, Option D
(Pos. No. 26401-10-79-006-00-21) Annual Salary 142,368

Public Service Administrator
(Pos. No. 37015-10-23-100-30-01) Annual Salary 73,632

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Senior Public Service Administrator
(Pos. No. 40070-10-65-000-00-01)

Annual Salary
105,475

Senior Public Service Administrator
(Pos. No. 40070-10-81-920-00-21)

Annual Salary
105,480

Illinois State and Local Labor Relations Board

Private Secretary II
(Pos. No. 34202-50-19-000-00-01)

Annual Salary
51,900

Department of Natural Resources

Administrative Assistant II
(Pos. No. 00502-12-30-000-20-01)

Annual Salary
50,520

Department of State Police

Senior Public Service Administrator
(Pos. No. 40070-21-10-000-00-01)

Annual Salary
109,358

(Source: Amended Chapter 25 Ill. Reg. 389, effective 3/8/80)

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1) Heading of the Part: Truants' Alternative and Optional Education Programs

2) Code Citation: 23 Ill. Adm. Code 205

3) Section Number: Adopted Action:

205.10 Repeal

205.20 Amendment

205.30 Amendment

205.35 New Section

205.40 Amendment

205.50 Amendment

205.55 Repeal

205.60 Amendment

205.70 Amendment

205.80 Repeal

4) Statutory Authority: 105 ILCS 5/2-3.66

5) Effective Date of Amendments: January 25, 2001

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: 24 Ill. Reg. 14854; October 13, 2000

10) Has JCAR issued a Statement of Objections to these amendments? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements? Yes

13) Will these amendments replace an emergency amendment currently in effect?
No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: This set of rules, adopted in 1987, responded to new legislation. The rules were written very specifically at the time, reflecting nearly every item contained in the agency's request for proposals issued for the program. As a result, staff have found it very difficult to change the program's emphasis from time to time in

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response to changes in the field or to alter the application requirements to secure more informative material. These amendments will allow for more flexibility in operating the program from year to year, within the parameters established by the legislation.

The definition of "potential dropout" has also been changed. The law directs the State Board of Education to define by rule the way in which students would be identified as potential dropouts. The previous definition allowed for students who did not exhibit attendance problems to be served by the program. The new definition, linking attendance problems to adversely affecting learning or to a student's failure to meet State and/or district learning standards, will enable programs to target services to the students most in need.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Ms. Sheila Radford-Hill
Alternative Learning Partnerships Division
Illinois State Board of Education
100 West Randolph Street, Suite 14-300
Chicago, Illinois 60601
(312) 814-1487

The full text of the adopted amendments begins on the next page:

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TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER 1: STATE BOARD OF EDUCATION

SUBCHAPTER e: INSTRUCTION

PART 205

TRUANTS' ALTERNATIVE AND OPTIONAL EDUCATION PROGRAMS

Section

205.10 Definitions (Repealed)

205.20 Purpose

205.30 Eligible Applicants

205.35 Required Program Components

205.40 Application Procedure and Content

205.50 Proposal Review and Approval ~~Criteria~~---Initial Applications

205.55 Proposal Review and Approval ~~Criteria~~ - Renewal Applications (Repealed)

205.60 Allocation of Funds

205.70 Terms of the Grant

205.80 Notification of Grant Awards (Repealed)

AUTHORITY: Implementing and authorized by Section 2-3.66 of the School Code [105 ILCS 5/2-3.66].

SOURCE: Emergency rules adopted at 9 Ill. Reg. 15978, effective October 18, 1985, for a maximum of 150 days; adopted at 11 Ill. Reg. 6418, effective March 31, 1987; amended at 14 Ill. Reg. 10320, effective June 19, 1990; amended at 25 Ill. Reg. 2399 effective June 19, 2001.

Section 205.10 Definitions (Repealed)

"Chronic-or-Habitual-Truant"--means--a child--subject--to--compulsory school--attendance--and--who--is--absent--without--valid--cause--from--such attendance--for--10%--or--more--of--the--previous--180--regular--attendance--days (111-Rev-Stat--1985--ch--122--par--26-2a7--as--amended--by--P.A. 84-1420--effective--September--22--1986);

"Dropout"--means any-child-enrolled-in-grades-1-through-12-whose-name has-been-removed-from-the-district-enrollment-roster--for--any--reason other--than--his-death--extended-illness--graduation--or--completion--of--a program--of--studies--and--who--has--not--transferred--to--another--public--or private--school (111-Rev-Stat--1985--ch--122--par--26-2a7--as--amended by--P.A. 84-1424--effective--September--24--1986);

"Education-Agency"--means-the-entities-eligible-to-apply-for-grants--as specified--in--Section--2-3.66--of--the--School-Code (111-Rev-Stat--1985--ch--122--par--2-3.66)--and--Section--205.30--of--this-Part;

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"individualized-Optional-Education-Plan"--means--a--written--document developed--in--accordance--with--Section-2-3.66-of-the-School-Code-and this-Part-that-outlines-an--individual's--academic--and/or--vocational skill--needs--and--outlines-goals,--objectives,--and--various-educational experiences-needed-to-reach-those-goals-and-objectives.

"Optional-Education-Program"--means--a--modified--instructional--program established--by--school--board--policy--to--serve--as--a--part-time-or full-time-option-in-lieu-of-regular-school-attendance--in--conformance with-Section-2-3.66-of-the-School-Code-and-this-Part.

"Potential-Dropout"--means--a--student--who--is--subject-to-compulsory attendance-as-defined-in-Article-26-of-the-School-Code--and--who--is identified-by-school-district-officials-as-a-potential-dropout-or-as-a student--at-risk--on--the-basis-of-his-or-her-academic-and/or-personal performance--this-definition-includes-a-truant,--chronic-truant--or--a student--whose--academic--and/or--personal--performance--(e-g-7 underachievement)--discipline--problems,--lack--of--participation--in voluntary--school--programs)--demonstrates--to-school-district-officials that-he-or-she-is-uninvolved,--unmotivated,--and/or--disaffected.

"truant"--means--a--person--who--is--subject-to-compulsory-school-attendance and-who-is-absent-without-valid-cause-for--a--school--day--or--portion thereof (Ill. Rev. Stat. 1985, ch. 122, par. 26-2a).

(Source: Repealed at 25 Ill. Reg. 399, effective 5/2-3-66)

Section 205.20 Purpose

a) This Part establishes these rules establish the procedure and criteria for approval of applications, submitted by eligible applicants to the State Board of Education, for grants to assist the applicants in establishing truant's alternative and optional education programs as authorized in Section 2-3.66 of the School Code. [105 ILCS 5/2-3.66]

b) Programs funded under this grant shall serve students identified as one of the following:

- 1) a truant, as defined in Section 26-2a of the School Code [105 ILCS 5/26-2a]; or
- 2) a chronic or habitual truant, as defined in Section 26-2a of the School Code; or
- 3) a dropout, as defined in Section 26-2a of the School Code; or
- 4) a potential dropout, which is any student subject to compulsory attendance as defined in Article 26 of the School Code [105 ILCS 5/Art. 26] and whose school absences or pattern of school attendance impedes the student's learning or contributes to the student's failure to meet State and/or district learning

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standards. Attendance problems may include chronic truancy, truancy, selective absences, excessive absences or a pattern of absences or tardiness. In assessing whether marginal school attendance problems would place a student within the definition of "potential dropout," consideration shall be given to a student's personal involvement in the education process, apparent motivation to receive an education, or any continued and obvious apathy or disaffection for education, particularly, when indications of uninvolved, lack of motivation or disaffection are coupled with currently known individual or family circumstances that, if they remain unresolved, would be reasonably expected to result in escalating attendance problems.

(Source: Amended at 25 Ill. Reg. 299, effective 5/2-3-66)

Section 205.30 Eligible Applicants

a) Proposals for grant awards under Section 2-3.66 of the School Code may be submitted only by public local school districts, regional offices of education, educational-service-regions, public university laboratory schools approved by the State Board of Education, charter schools or community college districts. Any combination of these entities may submit a joint proposal.

a) School districts must attach a copy of the Board of Education minutes which include a formally approved motion-granting authority to submit the application. For other applicants, a letter from the chief executive officer or legal governing board endorsed by its president must be included indicating the authority to submit the application. Joint applications for funds may be submitted. If a joint application is submitted, then an administrative agent shall be designated. In each case, a single entity must be designated as the administrative agent, and the chief executive officer of each participating agency must sign the proposal.

1) The superintendent from each of the participating school districts and the official authorized to submit a proposal on behalf of any other eligible entity as defined in subsection (a) of this Section shall sign the joint application.

2) A school district or other eligible entity shall only participate in one proposal for a program.

(Source: Amended at 25 Ill. Reg. 299, effective 5/2-3-66)

Section 205.35 Required Program Components

Each program funded pursuant to Section 2-3.66 of the School Code shall include at least the following components.

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- a) A comprehensive community-based program planning process that includes, but is not limited to, the participation of business, community organizations, social service providers, government agencies, parents, school administrators and other staff members, including teachers, and students, and that leads to the development and implementation of a strategic plan.

1) The plan shall contain program goals and objectives developed by analyzing social and academic challenges in the community to be served by the truants' alternative and optional education program.

2) The plan shall identify available community resources and services and describe how these will be coordinated to meet the needs of students identified as eligible for the program (see Section 205.20(b) of this Part).

- b) An individualized Optional Education Plan, which is a written document developed in accordance with Section 2-3.66 of the School Code and this Part, that outlines an individual's academic, vocational and/or life skill needs, as well as goals and objectives and various educational and social experiences needed to reach those goals and objectives. The development of this plan shall include school officials, the student, and the student's parents or legal guardians if the student is less than 18 years old. The individualized optional education plan for each student shall include:

- 1) learning objectives or individual outcomes, such as increased school attendance, course credit, graduation, gains in achievement level, or employment;
- 2) the basis upon which the student is referred to the program;
- 3) the services that will be provided in relation to the student's educational, social, and/or career development needs necessary to achieve the learning objectives or individual outcomes pursuant to subsection (b)(1) of this Section;
- 4) assessment procedures to determine the degree to which the student is achieving his or her learning objectives or individual outcomes;
- 5) a time period sufficient to allow the student to achieve those objectives or outcomes; and
- 6) a statement that the student, parent, or guardian has the ultimate choice of whether to accept the individualized optional education plan that is offered or to return to or remain in the regular education program of the school district attended.

- c) Educational services that may include either:

- 1) An Optional Education program that provides a modified instructional program that incorporates State academic standards and, as appropriate to the student's needs, work-based learning and career development, and is established by school board policy to serve as a part-time or full-time option in lieu of regular school attendance in conformance with Section 2-3.66 of the School Code and this Part; or

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- 2) Supplemental services that provide students enrolled in the regular school program with supports (e.g., tutoring, mentoring, health services, home visits, counseling) that are needed to increase their attendance rates or prevent them from dropping out of school.

(Source: Added at 25 Ill. Reg. 2.90, effective 8/1/2011)

Section 205.40 Application Procedure and Content

It is the intention of the State Board of Education to approve truants' alternative and optional education programs for a three-year period. Funding for the second and third years of operation (i.e., beginning the year following the initial grant award) shall be contingent upon the availability of funds for the program, the grantee's progress toward meeting its objectives, and the evidence presented in the proposal that a sufficient need continues to exist for the program (see Section 205.40(f) of this Part).

- a) The State Board of Education will issue a Request for Proposals Proposal (RFP) specifying the information that which applicants shall must include in their proposals proposal and requiring that proposals be submitted to the State Board of Education no later than the date specified in the RFP. The RFP which shall provide at least 45 forty-five (45) calendar days in which to submit proposals. Beginning with proposals which are approved for 1989-90, it is the intention of the State Board of Education to approve projects for a three-year period. Funding for the second and third years of operation will be contingent on the availability of funds for the program and on the grantee's progress toward meeting its objectives (See Section 205.55).

- b) Each RFP shall indicate the descriptive information (e.g., needs assessment, community-based planning procedures, indicators used to identify students for the program, program objectives and activities, individualized optional education plan development, means of evaluation) that initial applicants will be required to provide about their proposed programs. Initial applicants are those that did not receive funding under this Part for a truant's alternative and optional education program in the year previous to an application or that are completing the last year in a three-year funding cycle. Each RFP shall identify any area or areas of high priority for the funding cycle. Each initial proposal must provide the following information:

- 1) A Completed Form--Truants' Alternative and Optional Education Program Demographic Information and an Abstract of the Proposal (not more than 200 words);

- 2) Comprehensive Planning
 - A) The applicant is required to demonstrate preparedness to make specific efforts to utilize available school, social service agency, business and other regional and local

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community--services--Coordination-of--program--services involving--personnel--from--school--districts--social--and community--services--agencies--business--parents--or--guardians representative--of--courts--staff--advisory--groups--and--others having--responsibilities--for--the--welfare--of--children--should be--a--major--component--of--the--proposed--program--The--applicant shall:

- i) list--all--individuals--involved--in--planning--the--proposed program--Alternative--and--Optional--Education--Program identify--the--organization--agency--or--group--each represents--and--describe--the--nature--and--extent--of his/her--involvement; and
- ii) describe--in--detail--how--the--coordination--of--services for--students--at--risk--of--school--failure--and/or--dropouts will--be--carried--out.

B) The--applicant--is--required--to--describe--in--detail--the--nature and--extent--of--existing--truancy/dropout--prevention--services including--diagnostic--interventive--remedative--services--and education--options--that--are--available--for--use--in--the--area. This--description--shall--include--an--indication--of--which services--need--to--be--expanded--or--are--lacking--and--need--to--be established.

C) The--geographic--area--to--be--covered--by--the--proposed--program must--be--identified--including--a--list--of--the--participating school--districts.

B) The--qualifications--of--professionals--staff--including certification--status--and--the--duties--of--each--must--be identified.

B) The--applicant--shall--describe--the--facilities--to--be--used--by the--program.

3) Remedative/Interventive--Services--Educational--Options--and Diagnostic--Procedures

A) The--applicant--shall--indicate--intent--to--offer--both--a truancy/dropout--prevention--program--and--remedative/ interventive--and/or--supportive--services--and--an--educational option--e.g.--an--academic--and/or--vocational--curriculum--or to--offer--one--of--these--programs--and--shall--describe--such proposed--program--and--services.

B) The--applicant--shall--describe--the--diagnostic--procedure(s)--to be--used--to--determine--the--cause(s)--of--a--student's--being--at risk--of--school--failure. These--procedures--shall--include--but need--not--be--limited--to--an--interview--with--the--youth consultation--with--the--youth's--parent(s)--or--guardian(s) a review--of--the--youth's--academic--history--and--current educational--functioning--and--an--assessment--of--the--youth's learning--environment--Persons--who--will--be--involved--in--the above--diagnostic--procedures--e.g.--guidance--counselors regional--diagnostic--center--personnel--school--psychologists

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social--workers--case--workers--or--others--must--be--identified. The--applicant--shall--list--the--indicators--which--will--be--used to--identify--students--at--risk--of--school--failure--potential dropouts--and/or--dropouts--who--will--participate--in--the program--Specific--criteria--by--which--youth--will--be--chosen--to receive--diagnostic--interventive--or--remedative--services and/or--educational--options--must--be--indicated.

4) Needs--Assessment

A) The--applicant--shall--describe--the--students--need--for--the proposed--remedative/interventive--services--and/or educational--option.

B) The--need--so--described--must--be--documented--with--current statistical--and/or--descriptive--information/data.

5) Individualized--Optional--Education--or--Service--Plans
The--applicant--shall--describe--the--procedures--for--developing--a written--individualized--optional--education--plan--or--service--plan for--each--student--Procedures--for--the--development--of--a--written optional--education--or--service--plan--shall--include--the--involvement of--the--student--the--student's--parent(s)--or--legal--guardian(s) unless--the--student--is--18--or--more--years--old--and--the--appropriate school--officials--The--plan--must--include:

A) learning--objectives--or--individual--outcomes--such--as--increased school--attendance--course--credit--graduation--gains--in achievement--level--or--employment;

B) assessment--procedures--to--determine--the--degree--to--which--the student--is--achieving--his/her--learning--objectives--or individual--outcomes; and

C) an--appropriate--time--period--during--which--the--student--is expected--to--achieve--those--objectives/outcomes.

6) Statement--of--Program--Objectives

Specific--objectives--must--be--stated--Each--objective--must--relate to--the--previously--identified--needs--and--must--be--stated--in measurable--terms.

7) Activity--Statement(s)

A--concise--description--of--activities--corresponding--to--each objective--must--be--presented--Activity--statements--must--include indications--of:

A) What--will--be--done;

B) When--each--activity--will--be--implemented--and--completed;

C) Who--will--conduct--each--activity; and

B) Who--will--be--served--by--each--activity.

8) Evaluation--Design

A) Formative--Evaluation

The--applicant--shall--describe--the--evaluation--process--for determining--whether--progress--is--being--made--toward--achieving the--program--objectives.

Summative--Evaluation

B) The--applicant--shall--describe--the--evaluation--process--for

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determining success of the program. The evaluation must be designed so that it will document the services provided to individuals, report the degree to which the program completed its proposed objectives, and include qualitative data such as race and sex, as well as descriptive statistics such as numbers served, attendance rates, and the degree to which truancy and/or chronic truancy was reduced, number of credits earned, number of students who graduated, or successfully completed the G.E.D., and number of students who are employed.

- 9) Budget/Fiscal Information
The budget summary and payment schedule must be completed on the form provided. A budget breakdown, i.e., a detailed explanation of each line item of expenditure, must also be provided.

- 10) Assurances and Certification
The applicant shall submit the assurances and certification forms attesting to the following:

- A) The applicant has the necessary legal authority to apply for and to receive the proposed grant.
B) The activities and services for which assistance is sought under this program will be administered by or under the supervision of the applicant.
C) In planning the program proposed in the application, there has been, and in establishing and carrying out the program there will be, participation of persons broadly representative of the cultural and educational resources of the area to be served, including persons representative of the interests of potential beneficiaries.
D) No funds received under the grant shall be used to supplant funds normally budgeted for the planning of services of the same type.
E) The project will be operated in compliance with all applicable state and federal laws, including but not limited to the Illinois Grant Funds Recovery Act (Ill. Rev. Stat. 1909, ch. 127, par. 2301 et seq.), the School Code (Ill. Rev. Stat. 1909, ch. 122, par. 1 et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), the Illinois Human Rights Act (Ill. Rev. Stat. 1909, ch. 68, 120-1.103 et seq.), the Education of All Handicapped Children Act (20 U.S.C. 1401 et seq.), the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.), and Titles VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), 4000 et seq.), and the applicant shall submit such reports as may be required.

- F) The filing of the application has been authorized by the governing body of the applicant, and the applicant's representative has been duly authorized to file the application, and to otherwise act as the authorized

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- 6) representative of the applicant.
The applicant has not been barred from bidding for the grant as a result of a violation of Section 33B-3 or 33B-4 of the Criminal Code of 1961 (Ill. Rev. Stat. 1909, ch. 30, pars. 33B-3 or 33B-4).

- 11) School districts submitting a proposal to establish an optional education program individually or jointly must include in the proposal a copy of the policy adopted by their board(s) of education to establish such a program.

- C) Each RPP shall describe the proposal format that applicants will be required to follow (e.g., cover page, program staffing, proposal abstract, proposal narrative).

- D) Each proposal shall include a budget summary and payment schedule and a narrative budget breakdown (i.e., a detailed explanation of each line item of expenditure), completed on forms provided by the State Board of Education.

- E) Each proposal shall include a Certification and Assurances for Application and Award and a Drug-Free Workplace Certification. Submitted on forms supplied by the State Board of Education.

- F) Each proposal for renewal shall contain at least the following:
1) a mid-year report summarizing evaluation of the current preceding year's program, documenting the services provided and describing the degree to which the grantee is achieving achieved its stated objectives;

- 2) an updated narrative description of the objectives, activities, timelines, evaluation procedures, and the personnel to be responsible for them in the renewal year, relating the objectives and activities proposed to the results to date, as described in the mid-year report required under subsection (f)(1) of this Section information applicable to the activities proposed for the renewal period as called for in subsections (b)(1), (3), (6), (7), and (9);

- 3) an updated budget summary and payment schedule, with narrative budget breakdown, for the renewal year; and for each of the items called for in subsections (b)(2), (4), (5), (6), (7), and (8); either updated information applicable to the renewal period or a statement that the information originally provided remains accurate;

- 4) the assurances and certification forms referred to in subsection (e) of this Section, bearing a current signature and applicable to the renewal period.

- 5) a narrative statement relating to the activities and objectives proposed for the renewal period to the evaluation results provided pursuant to subsection (c)(1), and the assurances and certification forms referred to in subsection (b)(1), bearing a current signature and applicable to the renewal period.

- D) Each proposal must state who is to implement the proposed program, i.e., the educational agency or another not-for-profit entity under

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contract-to-the-educational-agency-as-authorized-in-Section-2-3-66--of
the--School--Code--Such--contracts--shall--contain--specific--provisions
limiting--the--delivery--of--goods--and--services--under--them--to--those
authorized--under--the--terms--of--the--grant--award--issued--by--the--State
Board--of--Education--to--the--eligible--applicant.
g) Incomplete proposals will not be considered for funding.

(Source: Amended at 25 Ill. Reg. 2206 effective
1/15/91)

Section 205.50 Proposal Review and Approval Criteria--Initial Applications

- a) Proposals--submitted--in--response--to--the--Request--for--Proposal--shall--be
evaluated--in--accordance--with--the--following--criteria:
 - 1) truancy/dropout--services--including--services--for--chronic--truancy
shall--include--preventive--diagnostic--intervention--and
remedial--services--and--shall--have--the--following--components:
 - A) a--description--of--the--procedures--used--to--document--the--need
for--truancy/dropout--prevention--services--and--to--develop--the
proposed--program--(this--shall--include--identification--of--the
individuals--and/or--groups--involved--in--the--process--)
 - B) procedures--and--criteria--by--which--youth--will--be--chosen--to
receive--diagnostic--intervention--and/or--remediation
services;
 - C) diagnostic--procedure(s)--to--be--used--to--determine--the--cause(s)
of--truancy--or--dropping--out--of--school--(these--procedures--shall
include--but--need--not--be--limited--to--an--interview--with--the
student--consultation--with--the--student's--parent(s)--or
guardian(s)--a--review--of--the--student's--academic--history--and
current--educational--functioning--and--an--assessment--of--the
student's--learning--environment--)
 - B) direct--services--aimed--at--preventing--overcoming--or
remediating--the--cause(s)--of--truancy--or--dropping--out--of
school--and
 - B) procedures--for--assessing--the--effectiveness--of--preventive
diagnostic--and--remediation--services;
 - 2) Optional--education--programs--shall--have--the--following--components:
 - A) a--description--of--the--procedures--used--to--document--the--need
for--optional--education--services--and--to--develop--the--proposed
program--(this--shall--include--identification--of--the
individuals--and/or--groups--included--in--the--process--)
 - B) procedures--by--which--at-risk--youth--or--dropouts--will--be
identified--for--placement--in--the--proposed--optional--education
program;
 - C) procedures--for--developing--individualized--optional--education
plans--(Such--procedures--shall--include--the--involvement--of--the
student--the--student's--parent(s)--or--legal--guardian(s)
unless--the--student--is--18--or--more--years--old--and--the

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- B) appropriate--school--officials--)
- E) a--description--of--the--optional--education--program--including
student--academic--and/or--vocational--skills--learning--outcomes,
time--(full--or--part--time)--that--the--student--will--participate
in--the--program--and--the--location--or--setting--of--the--program--
and
- F) procedures--for--assessing--the--effectiveness--of--the--optional
education--program--in--meeting--the--academic--and/or--vocational
skills--objectives--of--students--as--outlined--in--their
individualized--optional--education--plans.
- b) information--contained--in--proposals--submitted--in--accordance--with
Section--205.40--of--this--Part--will--be--reviewed--by--State--Board--of
Education--staff--to--determine--that--the--information--demonstrates
compliance--with--Section--2-3-66--of--the--School--Code--and--this--Part.
c) if--the--proposal--is--incomplete--State--Board--staff--will--send--a--written
notice--to--applicants--requesting--that--they--supply--the--needed
information--Such--applicants--must--supply--the--requested--information
within--thirty--(30)--calendar--days--of--their--receipt--of--said--notice.
d) Proposals submitted for initial funding under this Part shall be
evaluated in accordance with complete program proposal applications
will be reviewed and rank ordered by State Board staff on the basis of
the following criteria and points:
 - 1) The program proposal contains a statement of need, objectives and
activities and an evaluation design and complies with all other
requirements requested in the Request for Proposal--40 points.
 - 2) The program proposal demonstrates that the services to be
provided are designed to prevent truancy and dropping out of
school through diagnostic intervention and/or remediation
services and/or are designed to meet the academic and/or
vocational skills needs of at-risk students or dropouts who will
be served by the program--35 points.
- 13) There is sufficient need for the program/services, as evidenced
by the trer number or proportion of at-risk students
identified as eligible for program services (see Section
205.20(b) of this Part). 7-chronic truants; students dropping out
of school--and dropouts in the geographic area to be served -
(20 points);
- 2) Criteria and indicators for identifying students who are eligible
for the program are clearly established and likely to target
those students most in need of services. (20 points)
- 3) Program objectives and activities are well-defined, linked to
identified needs, and likely to lead to improved outcomes for the
students served in the program. (20 points)
- 4) The program is cost-effective as evidenced by the cost of
proposed services in relation to the numbers to be served and the
services to be provided. - (5 20 points);

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- 5) The evaluation strategies will effectively gauge the success of the program and yield sufficient data that can be used to improve the program. (10 points)
- 6) The proposal demonstrates strategies, other than those routinely offered by the regular school program, that will be effective in decreasing the dropout rate and increasing school attendance. (10 points)

- b) Proposals submitted for a renewal period shall be evaluated in accordance with the following criteria:

1) The evaluation of the current year's project indicates that its stated objectives are being met, that the project has been conducted in conformance with the proposal approved by the State Superintendent of Education, and that a sufficient need continues to exist for the grantee's alternative and optional education program; or

- 2) In instances where certain objectives of the project are not being met, the grantee has described the relative status of each such objective, the reason(s) for incomplete achievement, and either:

- i) the steps to be taken to ensure that the objective will be met during the renewal period, if the objective remains a valid part of the proposal for renewal; or
- ii) if the grantee has determined that the objective should be deleted from its plan or altered in light of the previous year's experience, then the grantee has provided its rationale for such deletion or change and has described how the program's goals for the renewal period will be met in light of the change.

- c) The selection of proposals for funding may be based in part on geographic distribution and/or the need to provide resources to public school districts and communities with varying demographic characteristics.

- d) Priority consideration may be given to proposals with specific areas of emphasis, as identified by the State Board of Education in a particular RFP.

- e) The State Superintendent of Education will make final determinations in accordance with the criteria stated in subsections (a) and (b) subsection (d) of this Section.

(Source: Amended at 25 Ill. Reg. 7399 effective 1/1/80)

Section 205.55 Proposal Review and Approval Criteria - Renewal Applications (Repealed)

Proposals submitted for a renewal period shall be evaluated in accordance with the following criteria:

- a) The evaluation of the previous year's project indicates that its

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- stated objectives have been met and that the project has been conducted in conformance with the application approved by the State Superintendent of Education; or
- b) in instances where certain objectives have not been met, the grantee has described the relative status of each such objective, the reason(s) for incomplete achievement, and either:
- i) the steps to be taken to ensure that the objective will be met during the renewal period, if the objective remains a valid part of the proposal for renewal; or
- 2) if the grantee has determined that the objective should be deleted from its plan or altered in light of the previous year's experience, the grantee has provided its rationale for such deletion or change and has described how the program's goals for the renewal period will be met in light of the change.

(Source: Repealed, at 25 Ill. Reg. 7399 effective 1/1/80)

Section 205.60 Allocation of Funds

The State Superintendent of Education shall determine the amount of individual grant awards on the basis of the following criteria. The final award amounts will be based on these criteria following negotiation with the grant recipient:

- a) the total funds appropriated for truant's alternative and optional education programs;
- b) the program needs, resources, and amounts requested in the top-ranked proposals determined pursuant to Section 205.50(a) and (b) of this Part Section 205.50(d); and
- c) the need to assure delivery of truancy prevention services and truant's alternative and optional education programs on a statewide basis and in a manner that will have the greatest impact in preventing truancy and students from dropping out of school.

(Source: Amended at 25 Ill. Reg. effective 1/1/80)

Section 205.70 Terms of the Grant

Each RFP shall inform potential recipients of the terms and conditions that apply to their receipt and use of grant funds under this program, including at least the following:

- a) All grants issued under this Part shall be governed by the Illinois Grant Funds Recovery Act [30 ILCS 705] (Ill. Rev. Stat. 1989, Ch. 127, par. 2301 et seq.).
- b) Applicants may be asked to clarify certain aspects of their proposals. A negotiated and finalized proposal returned to the applicant, with an authorized signature affixed to the cover page, will constitute an approved grant agreement with the State Board of Education. The time

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period-of-the-grant-shall-run-from-September-1-of-the-calendar-year-or from-a-date-to-be-negotiated-through--August--31--of--the--following calendar-year.

- c) Orders for payment will be submitted to the Office of the Comptroller by the State Board of Education according to a negotiated payment schedule. Payments may be reduced from scheduled amounts if periodic reports show excessive cash on hand. Successful applicants shall submit interim and final reports by the end of February and the end of the grant period, respectively, specifying:

- 1) diagnostic services provided;
- 2) remediation or intervention services provided;
- 3) truancy prevention services/activities provided;
- 4) the extent to which program objectives have been accomplished;
- 5) descriptive statistics, i.e., attendance data, number of student contacts, home visits, number of referrals to social service agencies and other specialized services; and
- 6) any similar program-related information that the State Superintendent of Education may request upon 30 days written notice.

- d) Recipients of grant awards shall maintain records on program and fiscal activities for a period of three years following the end of the grant period, however, if there are outstanding audit exceptions, records shall be retained until such exceptions are closed out. Such records include fiscal accounting for all monies in accordance with 23 Ill. Adm. Code 110 (Program Accounting Manual) and the program assessment and final report specified in subsection (c) of this Section. An audit report which includes a certified opinion and statement of receipts and disbursements compared to the approved budget must be submitted to the State Board no later than 45 days after the end of the contract period.

- de) The grantee may operate its own program or enter into a subcontract with another not-for-profit entity to implement the program. However, all program responsibilities are to be retained by the grantee to ensure compliance with the terms and conditions of the grant. All subcontracting must be documented and must have approval of the State Superintendent of Education. Approval of subcontracts will be subject to the same criteria as are applied to the original project application. The following information is required if any subcontracting is to be utilized:

- 1) Name and address of subcontractor;
- 2) Need/purpose for subcontracting;
- 3) Measurable and time-specific services to be provided;
- 4) Associated costs, i.e., amount to be paid under the contract, and
- 5) Projected number of children to be served.

- ef) Grant recipients must submit a final project report to the State Board of Education within 30 days after the ending date of the grant period. All grant funds shall be used exclusively for the purposes stated in the approved proposal.

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- fa) An approved budget Payments from the State Board of Education to grantees will be made according to a negotiated payment schedule. Payments will not vary from the schedule unless the quarterly reports show excessive cash on hand, at which time payments will be reduced proportionally. Amounts projected for each month are expected to be a reflection of need for that month and not simply the total budget divided by the number of months in the project. Following negotiations, contract budgets may be amended by completing an amendment to the budget summary and payment schedule form to show the new amounts required and attaching an explanation for the changes. Supplementary documentation showing variances and justifications. A budget amendment is necessary whenever an approved individual line item changes by more than \$500 or 10% (whichever is larger) from the approved budget. Changes will be approved if the proposed distribution of resources or activities would have been approvable within the original application.

- g) The annual RPP shall indicate the proportion of grant funds that can be used for administrative expenses.

(Source: Amended at 25 Ill. Reg. 30, effective 3/1/00)

Section 205.80 Notification of Grant Awards (Repealed)

Notification of grant awards for approved proposals will be made not later than forty-five (45) calendar days after the amount of the appropriation for this program is determined.

(Source: Repealed at 25 Ill. Reg. 30, effective 3/1/00)

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Affordable Housing Program
- 2) Code Citation: 47 Ill. Adm. Code 360
- 3) Section Numbers: 360.604 Adopted Action: Amendment
- 4) Statutory Authority: Sections 7.24(g), 7.19 and 7.25 of the Illinois Housing Development Act (20 ILCS 3805/7.24g, 7.19 and 7.25)
- 5) Effective Date of Rulemaking: January 24, 2001
- 6) Does this rulemaking contain an automatic repeal date? N/A
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: Published on September 15, 2000, 24 Ill. Reg 13795
- 10) Has JCAR issued a Statement of Objections to this amendment? No
- 11) Differences between proposal and final version: Authority Note was updated
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this amendment replace an emergency amendment currently in effect?
Yes
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of amendments: The amendment changes the existing rule to comply with the Department of Housing and Urban Development's requirements.
- 16) Information and questions regarding this adopted amendment shall be directed to:
Lori Silver, Esq.
401 N. Michigan Ave, Suite 900
Chicago, Illinois 60601
312/836-7341

The full text of the adopted amendment begins on the next page:

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENT

TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT
CHAPTER II: ILLINOIS HOUSING DEVELOPMENT AUTHORITY

PART 360

AFFORDABLE HOUSING PROGRAM

SUBPART A: GENERAL RULES

Section	Authority
360.101	Purpose and Objectives
360.102	Definitions
360.103	Borrowing by the Authority
360.104	Compliance with Federal Law
360.105	Standards - Criteria
360.106	Forms and Procedures for the Program
360.107	Fees and Charges of the Authority
360.108	Waiver (Repealed)
360.109	Amendment
360.110	Severability
360.111	Gender and Number
360.112	Titles and Captions
360.113	Calendar Days
360.114	

SUBPART B: USES

Section	Authority
360.201	Recipients
360.202	Beneficiaries
360.203	Permitted Uses of Trust Fund Monies
360.204	Market Rate Developments

SUBPART C: APPLICATION

Section	Authority
360.301	Application Form
360.302	Review
360.303	Initial Contact
360.304	Site and Market Study/Rental Analysis
360.305	Feasibility Determination (Repealed)
360.306	Staff Recommendation
360.307	Advisory Commission
360.308	Authority Determination
360.309	Conditional Commitment
360.310	

SUBPART D: NOTICE

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

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Section
360.401
360.402

Notification by Authority
Comments and Responses

SUBPART E: RECIPIENT

Section

360.501 Eligible Applicants (Repealed)

360.502 Land Trusts

360.503 Books and Records

360.504 Audits

360.505 Annual Financial Report

360.506 Furnishing Information

360.507 Standards for Approval of Conveyance

SUBPART F: LOANS AND GRANTS

Section

360.601 Maximum Loan Amount and Priority

360.602 Maximum Grant Amount

360.603 Increase Above Maximum Loan or Grant Amount

360.604 Amortization

360.605 Recapture of Assistance

360.606 Prepayment of Loan

SUBPART G: CONSTRUCTION

Section

360.701 Design and Construction Standards

SUBPART H: MARKETING AND MANAGEMENT

Section

360.801 Marketing and Management

360.802 Marketing and Management Plans

360.803 Maintenance

360.804 Cost of Service

SUBPART I: TENANTS AND OCCUPANCY

Section

360.901 Displacement

360.902 Relocation Plan

360.903 Tenant Selection Plan and Participant Selection Plan

360.904 Income and Housing Expense Limits

360.905 Non-Discrimination

SUBPART J: ENERGY EFFICIENCY

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF ADOPTED AMENDMENT

Section
360.1101 Standards

SUBPART K: CERTIFICATIONS

Section

360.1101 Environmental Assessment

360.1102 Other Laws

AUTHORITY: Implementing Sections 4 and 7(e) of the Illinois Affordable Housing Act [310 ILCS 65/4 and 7(e)] and authorized by Sections 7.19 and 7.25 of the Illinois Housing Development Act [20 ILCS 3805/7.19 and 7.25].

SOURCE: Emergency rules adopted at 14 Ill. Reg. 2094, effective January 22, 1990, for a maximum of 150 days; adopted at 14 Ill. Reg. 9117, effective May 24, 1990; amended at 15 Ill. Reg. 17088, effective November 19, 1991; emergency amendment at 18 Ill. Reg. 2124, effective January 12, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 8663, effective May 25, 1994; amended at 22 Ill. Reg. 4321, effective February 4, 1998; amended at 23 Ill. Reg. 3692, effective March 15, 1999; amended at 23 Ill. Reg. 8819, effective July 26, 1999; emergency amendment at 24 Ill. Reg. 14065, effective September 24, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 2400, effective January 24, 2001.

SUBPART F: LOANS AND GRANTS

Section 360.604 Amortization

The maximum amortization period term of a Loan to be made by the Authority under this Program shall not exceed 40 years and may be shorter at the sole discretion of the Authority.

(Source: Amended at 25 Ill. Reg. 2400, effective January 24, 2001.)

ILLINOIS DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Housing Discrimination
- 2) Code Citation: 71 Ill. Adm. Code 2300
- 3) Section Numbers: Adopted Action:
2300.10 Amendment
- 4) Statutory Authority: Implementing Articles 3, 6 and 7B and authorized by Section 7-101(A) of the Illinois Human Rights Act [775 ILCS 5/Arts. 3, 6 and 7B and 7-101(A)].
- 5) Effective Date of Amendment: January 24, 2001
- 6) Does the rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notices of Proposal Published in Illinois Register: October 13, 2000; 24 Ill. Reg. 14942
- 10) Has JCARE issued a Statement of Objection to this amendment? No
- 11) Differences between proposal and final version: The adopted rules are identical to that which was published in the *Illinois Register*.
- 12) Have all the changes agreed upon by the agency and JCARE been made as indicated in the agreement letter issued by JCARE? The adopted rules identical to that which was published in the *Illinois Register*.
- 13) Will the amendment replace an emergency rulemaking currently in effect?
No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: The amendment revises a definition to include all the protected bases provided in the Illinois Human Rights Act.
- 16) Information and questions regarding the adopted amendment shall be directed to:

David T. Rothal
Illinois Department of Human Rights,
100 W. Randolph Street, Ste. 10-100
Chicago, IL 60601
312-814-6242

ILLINOIS DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

The full text of the adopted amendment begins on the next page:

ILLINOIS DEPARTMENT OF HUMAN RIGHTS

NOTICE OF ADOPTED AMENDMENTS

TITLE 71: PUBLIC BUILDINGS, FACILITIES, AND REAL PROPERTY
CHAPTER VII: DEPARTMENT OF HUMAN RIGHTS

PART 2300

HOUSING DISCRIMINATION

Section	
2300.10	Definitions
2300.30	Exemptions
2300.50	Dismissal for Refusal to Accept Settlement Offer
2300.70	Procedures
2300.80	Rental of Rooms in a Private Home
2300.90	Real Estate Transactions

AUTHORITY: Implementing Articles 3, 6 and 7B, and authorized by Section 7-101(A), of the Illinois Human Rights Act [775 ILCS 5/Arts. 3, 6 and 7B and 7-101(A)].

SOURCE: Adopted at 16 Ill. Reg. 8178, effective May 19, 1992; amended at 25 Ill. Reg. 2420 - 1 effective 1/14/94.

Section 2300.10 Definitions

Act: the Illinois Human Rights Act [775 ILCS 5] (~~1993-CH-687-PARS-1-101-through-10-103~~).

Aid, abet, compel or coerce: includes threatening, intimidating or interfering with a real estate transaction or a person's enjoyment of a housing accommodation because of unlawful discrimination, or because of the race, color, religion, national origin, ancestry, citizenship status, age, sex, marital status, handicap, familial status or unfavorable discharge from the military of visitors or associates of such persons.

Department: the Illinois Department of Human Rights.

(Source: Amended at 25 Ill. Reg. 2420 effective 1/14/94)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Food Stamps
- 2) Code Citation: 89 Ill. Adm. Code 121

3) Section Numbers: Adopted Action:

121.60	Amendment
121.61	Amendment
121.63	Amendment
121.64	Amendment

- 4) Statutory Authority: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].

- 5) Effective Date of Amendments: January 25, 2001

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this rulemaking contain incorporations by reference? No

- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

- 9) Notice of Proposal Published in Illinois Register: October 20, 2000; 24 Ill. Reg. 15405

- 10) Has JCAR Issued a Statement of Objections to these amendments? No

- 11) Differences between proposal and final version: In Section 121.63(f)(1), added "s" to exceed.

In Section 121.63 (g)(1)(A), struck through "fees".

In Section 121.64 (C), changed "\$10.00" to "\$10".

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

- 13) Will these amendments replace an emergency amendment currently in effect?
Yes

- 14) Are there any amendment pending on this Part: No

- 15) Summary and Purpose of amendments: This rulemaking revises the income eligibility standards and benefit allowances as well as determining how those income standards and benefit allowances are to be applied. These changes are made to conform with Food and Nutrition Service regulations.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 16) Information and questions regarding these adopted amendments shall be directed to:

Ms. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
(217) 785-9772

The full text of adopted amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 121
FOOD STAMPS

SUBPART A: APPLICATION PROCEDURES

Section	
121.1	Application for Assistance
121.2	Time Limitations on the Disposition of an Application
121.3	Approval of an Application and Initial Authorization of Assistance
121.4	Denial of an Application
121.5	Client Cooperation
121.6	Emergency Assistance
121.7	Expedited Services
121.10	Interviews

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section	
121.18	Work Requirement
121.19	Ending a Voluntary Quit Disqualification (Repealed)
121.20	Citizenship
121.21	Residence
121.22	Social Security Numbers
121.23	Work Registration/Participation Requirements
121.24	Individuals Exempt From Work Registration Requirements
121.25	Failure to Comply with Work Provisions
121.26	Period of Sanction
121.27	Voluntary Job Quit/Reduction in Work Hours
121.28	Good Cause for Voluntary Job Quit/Reduction in Work Hours
121.29	Exemptions from Voluntary Quit/Reduction in Work Hour Rules

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section	
121.30	Unearned Income
121.31	Exempt Unearned Income
121.32	Education Benefits
121.33	Unearned Income In-Kind
121.34	Lump Sum Payments and Income Tax Refunds
121.40	Earned Income
121.41	Budgeting Earned Income
121.50	Exempt Earned Income
121.51	Income from Work/Study/Training Programs
121.52	Earned Income from Roomer and Boarder

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NOTICE OF ADOPTED AMENDMENTS

121.53 Income From Rental Property
 121.54 Earned Income In-Kind
 121.55 Sponsors of Aliens
 121.57 Assets
 121.58 Exempt Assets
 121.59 Asset Disregards

SUBPART D: ELIGIBILITY STANDARDS

Section

121.60 Net Monthly Income Eligibility Standards
 121.61 Gross Monthly Income Eligibility Standards
 121.62 Income Which Must Be Annualized
 121.63 Deductions From Monthly Income
 121.64 Food Stamp Benefit Amount

SUBPART E: HOUSEHOLD CONCEPT

Section

121.70 Composition of the Assistance Unit
 121.71 Living Arrangement
 121.72 Nonhousehold Members
 121.73 Ineligible Household Members
 121.74 Strikers
 121.75 Students
 121.76 Households Receiving AFDC, SSI, Interim Assistance and/or GA -
 Categorical Eligibility

SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

Section

121.80 Fraud Disqualification (Renumbered)
 121.81 Initiation of Administrative Fraud Hearing (Repealed)
 121.82 Definition of Fraud (Renumbered)
 121.83 Notification To Applicant Households (Renumbered)
 121.84 Disqualification Upon Finding of Fraud (Renumbered)
 121.85 Court Imposed Disqualification (Renumbered)
 121.90 Monthly Reporting and Retrospective Budgeting (Repealed)
 121.91 Monthly Reporting (Repealed)
 121.92 Retrospective Budgeting
 121.93 Issuance of Food Stamp Benefits
 121.94 Replacement of the EBT Card or Food Stamp Benefits
 121.95 Restoration of Lost Benefits
 121.96 Uses For Food Coupons
 121.97 Supplemental Payments
 121.98 Client Training for the Electronic Benefits Transfer (EBT) System
 121.105 State Food Program (Repealed)
 121.107 New State Food Program

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121.120 Recertification of Eligibility
 121.130 Residents of Shelters for Battered Women and their Children
 121.131 Fleeing Felons and Probation/Parole Violators
 121.135 Incorporation By Reference
 121.140 Small Group Living Arrangement Facilities and Drug/Alcoholic Treatment Centers
 121.145 Quarterly Reporting

SUBPART G: INTENTIONAL VIOLATIONS OF THE PROGRAM

Section

121.150 Definition of Intentional Violations of the Program
 121.151 Penalties for Intentional Violations of the Program
 121.152 Notification To Applicant Households
 121.153 Disqualification Upon Finding of Intentional Violation of the Program
 121.154 Court Imposed Disqualification

SUBPART H: FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM

Section

121.160 Persons Required to Participate
 121.162 Participation and Cooperation Requirements
 121.164 Orientation
 121.166 Assessment and Employability Plan
 121.170 Job Search Component
 121.172 Basic Education Component
 121.174 Job Readiness Component
 121.176 Work Experience Component
 121.177 Illinois Works Component
 121.178 Job Training Component
 121.179 JTPA Employability Services Component
 121.180 Grant Diversion Component (Repealed)
 121.182 Earnfare Component
 121.184 Sanctions
 121.186 Good Cause for Failure to Cooperate
 121.188 Supportive Services
 121.190 Conciliation and Fair Hearings
 121.200 Types of Claims (Recodified)
 121.201 Establishing a Claim for Intentional Violation of the Program (Recodified)
 121.202 Establishing a Claim for Unintentional Household Errors and Administrative Errors (Recodified)
 121.203 Collecting Claim Against Households (Recodified)
 121.204 Failure to Respond to Initial Demand Letter (Recodified)
 121.205 Methods of Repayment of Food Stamp Claims (Recodified)
 121.206 Determination of Monthly Allotment Reductions (Recodified)
 121.207 Failure to Make Payment in Accordance with Repayment Schedule (Recodified)

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NOTICE OF ADOPTED AMENDMENTS

121.208 Suspension and Termination of Claims (Recodified)

SUBPART I: WORK REQUIREMENT FOR FOOD STAMPS

- Section
121.220 Work Requirement Components
121.221 Meeting the Work Requirement with the Earnfare Component
121.222 Volunteer Community Work Component
121.223 Work Experience Component
121.224 Supportive Service Payments to Meet the Work Requirement
121.225 Meeting the Work Requirement with the Illinois Works Component
121.226 Meeting the Work Requirement with the JTPA Employability Services Component

AUTHORITY: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].

SOURCE: Adopted December 30, 1977; amended at 3 Ill. Reg. 5, p. 875, effective February 2, 1979; amended at 3 Ill. Reg. 31, p. 109, effective August 3, 1979; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 41, p. 165, effective October 11, 1979; amended at 3 Ill. Reg. 42, p. 230, effective October 9, 1979; amended at 3 Ill. Reg. 44, p. 173, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 3, p. 49, effective January 9, 1980; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 23, 1980; amended at 4 Ill. Reg. 10, p. 253, effective February 27, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 17, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1131, effective January 16, 1981; amended at 5 Ill. Reg. 4586, effective April 15, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 12736, effective October 29, 1981; amended at 6 Ill. Reg. 1653, effective January 17, 1982; amended at 6 Ill. Reg. 2707, effective March 2, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10208, effective August 9, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 5715, effective May 1, 1983; amended at 7 Ill. Reg. 8118, effective June 24, 1983; peremptory amendment at 7 Ill. Reg. 12899, effective October 1, 1983; amended at 7 Ill. Reg. 13655, effective October 4, 1983; peremptory amendment at 7 Ill. Reg. 16067, effective November

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18, 1983; amended at 7 Ill. Reg. 16169, effective November 22, 1983; amended at 8 Ill. Reg. 5673, effective April 18, 1984; amended at 8 Ill. Reg. 7249, effective May 16, 1984; peremptory amendment at 8 Ill. Reg. 10086, effective July 1, 1984; amended at 8 Ill. Reg. 13284, effective July 16, 1984; amended at 8 Ill. Reg. 17900, effective September 14, 1984; amended (by adding Section being codified with no substantive change) at 8 Ill. Reg. 17898; peremptory amendment at 8 Ill. Reg. 19690, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 22145, effective November 1, 1984; amended at 9 Ill. Reg. 302, effective January 1, 1985; amended at 9 Ill. Reg. 6804, effective May 1, 1985; amended at 9 Ill. Reg. 8665, effective May 29, 1985; peremptory amendment at 9 Ill. Reg. 8898, effective July 1, 1985; amended at 9 Ill. Reg. 11334, effective July 8, 1985; amended at 9 Ill. Reg. 14334, effective September 6, 1985; peremptory amendment at 9 Ill. Reg. 15582, effective October 1, 1985; amended at 9 Ill. Reg. 16889, effective October 16, 1985; amended at 9 Ill. Reg. 19726, effective December 9, 1985; amended at 10 Ill. Reg. 229, effective December 20, 1985; peremptory amendment at 10 Ill. Reg. 7387, effective April 21, 1986; peremptory amendment at 10 Ill. Reg. 7941, effective May 1, 1986; amended at 10 Ill. Reg. 14692, effective August 29, 1986; peremptory amendment at 10 Ill. Reg. 15714, effective October 1, 1986; Sections 121.200 thru 121.208 recodified to 89 Ill. Adm. Code 165 at 10 Ill. Reg. 21094; peremptory amendment at 11 Ill. Reg. 3761, effective February 11, 1987; emergency amendment at 11 Ill. Reg. 3754, effective February 13, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 9968, effective May 15, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 10269, effective May 22, 1987; amended at 11 Ill. Reg. 10621, effective May 25, 1987; peremptory amendment at 11 Ill. Reg. 11391, effective July 1, 1987; peremptory amendment at 11 Ill. Reg. 11855, effective June 30, 1987; emergency amendment at 11 Ill. Reg. 12043, effective July 6, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13635, effective August 1, 1987; amended at 11 Ill. Reg. 14022, effective August 10, 1987; emergency amendment at 11 Ill. Reg. 15261, effective September 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 15480, effective September 4, 1987; amended at 11 Ill. Reg. 15634, effective September 11, 1987; amended at 11 Ill. Reg. 18218, effective October 30, 1987; peremptory amendment at 11 Ill. Reg. 18374, effective October 30, 1987; amended at 12 Ill. Reg. 877, effective December 30, 1987; emergency amendment at 12 Ill. Reg. 1941, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 4204, effective February 5, 1988; amended at 12 Ill. Reg. 9678, effective May 23, 1988; amended at 12 Ill. Reg. 9922, effective June 1, 1988; amended at 12 Ill. Reg. 11463, effective June 30, 1988; amended at 12 Ill. Reg. 12824, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 14045, effective August 19, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 15704, effective October 1, 1988; peremptory amendment at 12 Ill. Reg. 16271, effective October 1, 1988; amended at 12 Ill. Reg. 20161, effective November 30, 1988; amended at 13 Ill. Reg. 3890, effective March 10, 1989; amended at 13 Ill. Reg. 13619, effective August 14, 1989; peremptory amendment at 13 Ill. Reg. 15859, effective October 1, 1989; amended at 14 Ill. Reg. 729, effective January 1, 1990; amended at 14 Ill. Reg. 6349, effective April 13, 1990; amended at 14 Ill. Reg. 13202, effective August 6, 1990; peremptory amendment at 14 Ill. Reg.

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15158, effective October 1, 1990; amended at 14 Ill. Reg. 16983, effective September 30, 1990; amended at 15 Ill. Reg. 11150, effective July 22, 1991; amended at 15 Ill. Reg. 11957, effective August 12, 1991; peremptory amendment at 15 Ill. Reg. 14134, effective October 1, 1991; emergency amendment at 16 Ill. Reg. 757, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10011, effective June 15, 1992; amended at 16 Ill. Reg. 13900, effective August 31, 1992; emergency amendment at 16 Ill. Reg. 16221, effective October 1, 1992, for a maximum of 150 days; peremptory amendment at 16 Ill. Reg. 16345, effective October 1, 1992; amended at 16 Ill. Reg. 16624, effective October 23, 1992; amended at 17 Ill. Reg. 644, effective December 31, 1992; amended at 17 Ill. Reg. 4333, effective March 19, 1993; amended at 17 Ill. Reg. 14625, effective August 26, 1993; emergency amendment at 17 Ill. Reg. 15149, effective September 7, 1993, for a maximum of 150 days; peremptory amendment at 17 Ill. Reg. 17477, effective October 1, 1993; expedited correction at 17 Ill. Reg. 21216, effective October 1, 1993; amended at 18 Ill. Reg. 2033, effective January 21, 1994; emergency amendment at 18 Ill. Reg. 2509, effective January 27, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 3427, effective February 28, 1994; amended at 18 Ill. Reg. 8921, effective June 3, 1994; amended at 18 Ill. Reg. 12829, effective August 5, 1994; amended at 18 Ill. Reg. 14103, effective August 26, 1994; amended at 19 Ill. Reg. 5626, effective March 31, 1995; amended at 19 Ill. Reg. 6648, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 12705, effective September 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13595, effective October 1, 1995; amended at 20 Ill. Reg. 1593, effective January 11, 1996; peremptory amendment at 20 Ill. Reg. 2229, effective January 17, 1996; amended at 20 Ill. Reg. 7902, effective June 1, 1996; amended at 20 Ill. Reg. 11935, effective August 14, 1996; emergency amendment at 20 Ill. Reg. 13381, effective October 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 13668, effective October 8, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 3156, effective February 28, 1997; amended at 21 Ill. Reg. 7733, effective June 4, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; emergency amendment at 22 Ill. Reg. 1954, effective January 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 5502, effective March 4, 1998; amended at 22 Ill. Reg. 7969, effective May 15, 1998; emergency amendment at 22 Ill. Reg. 10660, effective June 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12167, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16230, effective September 1, 1998; amended at 22 Ill. Reg. 19787, effective October 28, 1998; emergency amendment at 22 Ill. Reg. 19934, effective November 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 20099, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 2601, effective February 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 3374, effective March 1, 1999; amended at 23 Ill. Reg. 7285, effective June 18, 1999; emergency amendment at 23 Ill. Reg. 13253, effective October 13, 1999, for a maximum of 150 days; emergency amendment at 24 Ill. Reg. 3871, effective February 24, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 4180, effective March 2, 2000; amended at 24 Ill. Reg. 10198, effective June 27, 2000; amended at 24 Ill. Reg. 15428, effective October 10, 2000; emergency amendment at 24 Ill. Reg. 15468,

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effective October 1, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 845, effective January 5, 2001; amended at 25 Ill. Reg. 747, effective January 5, 2001.

SUBPART D: ELIGIBILITY STANDARDS

Section 121.60 Net Monthly Income Eligibility Standards

- a) Eligible households whose net monthly income does not exceed the maximum monthly income standards shall be assigned food stamp benefits based on the net monthly food stamp income.
- b) The maximum net monthly income standards are:

	Household Size	Amount
1.....	\$ 696 667
2.....	938 922
3.....	1,180 1757
4.....	1,421 1792
5.....	1,663 17627
6.....	1,905 17862
7.....	2,146 27097
8.....	2,388 27332
Each additional member.....	242 +235

Derived from Office of Management and Budget non-farm, income poverty guidelines.

(Source: Amended at 25 Ill. Reg. _____, effective _____)

Section 121.61 Gross Monthly Income Eligibility Standards

- a) Gross Monthly Income Eligibility Standards

1) The gross income standards of eligibility shall be 130 percent of the nonfarm income poverty guidelines prescribed by the Office of Management and Budget (see 7 CFR 273.9(a)(1)(1990)). However, categorically eligible households and households containing a member who is elderly, blind or disabled will be exempt from this gross income check (see also 7 CFR 273.9(c) (1990)). To qualify for increased benefits, a household must contain a member who meets one of the following requirements:

- A) A member is 60 years of age or older. An individual is considered age 60 in the fiscal month in which he or she becomes 60.
- B) A member receives Supplemental Security Income (SSI) benefits under Title XVI of the Social Security Act, (this includes the household where the member is receiving SSI income pending a final decision from the Social Security Administration. This SSI income is being provided on a

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temporary or emergency basis).

- C) A member receives Social Security disability or blindness benefits under Title II (RSPI) of the Social Security Act.
- D) A member receives State Supplemental Payment (SSP) due to blindness or disability.
- E) A veteran with a service-connected disability rated or paid as totally disabled by the Department of Veterans Affairs (VA).
- F) A veteran considered by the VA to be in need of regular aid and attendance or permanently housebound.
- G) A veteran's surviving spouse who is considered in need of aid and attendance or considered permanently housebound by the VA or a veteran's surviving child who is considered permanently incapable of self-support by the VA.
- H) A veteran's surviving spouse or child entitled to compensation for a service-connected death or pension benefits for a nonservice-connected death from the VA, if the spouse or child also has a disability considered permanent under Social Security requirements.
- I) A member receives federal, state, or local government disability pension and is considered permanently disabled under Social Security requirements.
- J) A member receives Railroad Retirement disability benefits.
- K) A member receives an annuity payment from Railroad Retirement and is eligible for Medicare.
- L) A member receives disability-related medical assistance benefits (Categories 92, 93 and P3) under Title XIX (Medicaid) of the Social Security Act.
- 2) For those veterans, surviving spouses, or children mentioned in subsections (a)(1)(F) and (G) of this Section, proof of receipt of VA disability benefits is sufficient verification of disability. For those veterans mentioned in subsection (a)(1)(E) of this Section, a verified statement, in writing, from the VA that the individual is totally disabled must be provided. To verify disability for those individuals mentioned in subsection (a)(1)(H) of this Section, the individual must provide a statement from the Social Security Administration or from a physician licensed under the Medical Practice Act of 1987 [225 ILCS 60], or a licensed or certified psychologist under the Clinical Psychologist Licensing Act [225 ILCS 15] that the individual suffers from one of the disabilities listed in the preamble to Section 21(i) of the Social Security Act (42 USC 421(i)) or if the disability is obvious, by the observation of the caseworker (for example, permanent loss of use of both hands).

b) Household Size

Gross Income

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One Person	\$	905	893
Two Persons		1,219	7199
Three Persons		1,533	7504
Four Persons		1,848	7810
Five Persons		2,162	7715
Six Persons		2,476	7742
Seven Persons		2,790	7726
Eight Persons		3,104	7692
Each Additional Member		315	+306

(Source: Amended at 25 Ill. Reg. 247, effective 11/1/81)

Section 121.63 Deductions From Monthly Income

- a) The deductions described in this Section shall be allowed in the determination of the adjusted net monthly food stamp income.
- b) Earned Income Deduction. Eighty percent of total gross earned income is considered. See Sections 121.40 through 121.54 for a description of earned income.
- c) Standard Deduction. The standard deduction is \$134 per household per month, except for cases in which the person receiving the food stamp benefits also receives VA cash assistance or those households receive a reduced amount of the standard deduction as negotiated between the Food and Nutrition Service and the Department.
- d) Dependent Care Deduction
 - 1) The dependent care deduction consists of payments for the care of a child or other dependent when necessary for a household member to accept or continue employment or to seek employment in compliance with the job search criteria (contained in 89 Ill. Adm. Code 112.70 through 112.73) or to attend training or pursue education which is preparatory for employment.
 - 2) The amount of the deduction is to be determined by the actual costs for care and is not to exceed \$200 per month for each child under age 2 and \$175 per month for each other dependent household member.
- e) Child Support Deduction. The child support deduction is the amount of legally obligated child support paid by a household member to or for a nonhousehold member.
- f) Shelter Costs Deduction
 - 1) The shelter deduction is the amount of shelter costs that exceeds exceed 50% of the household's total income after the allowable deductions in subsections (b), (c), (d), and (e) of this Section have been made. The shelter deduction shall not exceed \$300 \$275.
 - 2) If the household contains a member who is elderly or disabled, as defined at 7 CFR 271.2 (1990) and Section 121.61, there is no limit on the amount of the excess shelter deduction.

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- 3) Shelter costs include only the following:
- continuing charges for the shelter occupied by the household (rent, mortgage and other charges leading to the ownership of the shelter, including interest on such charges);
 - property taxes, State and local assessments and insurance on the structure itself; and
 - utility costs, as described in subsection (g) of this Section.
- 4) Shelter costs for a home temporarily unoccupied by the household because of employment or training away from home, illness or abandonment caused by a natural disaster or casualty loss, if:
- the household intends to return to the home;
 - the current occupants of the home, if any, are not claiming the shelter costs for food stamp purposes; and
 - the home is not leased or rented during the absence of the household.
- 5) Charges for repair of a home which was damaged or destroyed due to a natural disaster. Shelter costs shall not include repair charges which have been or will be reimbursed by private or public relief agencies, insurance companies or any other source.
- g) Utility Costs
- Utility costs include:
 - the cost of heating and cooking fuel, air conditioning, electricity, water, sewerage, garbage and trash collection fees;
 - basic service fee for one telephone (including tax on the basic fee) of \$27; and
 - fees charged by the utility provider for initial installation.
 - Utility deposits are not considered to be utility costs.
 - Except for households that claim utility expenses for an unoccupied home, either the air conditioning/heating standard or the electricity standard must be used if the household is billed for air conditioning, heating or electricity. See Section 121.63(g)(7) for households that claim utility expenses for an unoccupied home. Households ~~whose households~~ that ~~which~~ are billed for heating or air conditioning, or both, or heating, air conditioning and electricity, must use the air conditioning/heating standard allowance of \$222. Those households that are not billed for air conditioning or heating but are billed for electricity must use the electricity standard allowance of \$147. ~~separately--from-their-rent-or-mortgage-may claim-the-standard-utility-allowance-of-\$269.~~ Households living in rental housing who are billed on a regular basis by a landlord for costs for heating--or air conditioning, heating, or electricity must use the appropriate standard. ~~or-both-may-use the--standard--utility--allowance--if-utility-usage-is-determined through-a-meter-or-otherwise-is-verifiable-or-if-the--charge--for~~

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- ~~heating--or--air--conditioning--or--both--is--separate--and identifiable.~~ If the air conditioning/heating standard allowance or the electricity standard ~~utility~~ allowance is used, then no other utility costs may be claimed. If actual utility costs are allowed because the household does not qualify for either standard, ~~exceed-the-standard-utility-allowance,~~ then actual, verified costs may be claimed, except that if a separately-billed phone expense is claimed only the basic telephone allowance of \$27 per month is allowed. ~~The-client-may-switch-between-the standard-utility-allowance--and--actual-utility--costs-only-at recertification.~~
- ~~A However--during-the-heating-or-cooling-season--a household that is billed less often than monthly for its costs for heating, or air conditioning, or electricity must both--but-is-otherwise eligible-to-use-the-standard-utility-allowance--may continue to use the air conditioning/heating standard standard-utility allowance or the electricity standard allowance, whichever is appropriate, between billing months.~~

Households in public housing or privately owned rental units that receive a bill for over-usage are not entitled to use the air conditioning/heating standard allowance or the electricity standard allowance. When households (as defined at 7 CFR 273.1(a) (1990)) live together, the air conditioning/heating standard allowance or the electricity standard allowance, whichever is appropriate, shall be divided equally among the households that contribute toward the utility costs whether or not each household participates in the program.
 - Households whose expense for heat or electricity, or both, is covered by indirect energy assistance payments under the Illinois Home Energy Assistance Program (47 Ill. Adm. Code 100) shall be entitled to the air conditioning/heating standard allowance or the electricity standard allowance, whichever is appropriate (7 CFR 273.9 and 273.10(d)(6) (1990)). The provisions of subsection (f)(3) of this Section are applicable to households whose expenses for heating or electricity, or both, are covered by indirect energy assistance payments.
 - When the household claims a utility expense for an unoccupied home (as defined in Section 121.63(f)(4)), actual utility expenses are allowed for the unoccupied home as well as the current residence. The air conditioning/heating standard or the electricity standard is not used for either home. The appropriate utility standard may be used if the household chooses not to claim utilities for the unoccupied home.
 - ~~those households--that-are-not-billed-separately-for-either-heat-air--conditioning--or--electricity--are-not-entitled-to-claim either-the-air-conditioning/heating--standard--allowance--or--the electricity--standard--allowance--but-may-claim-the-actual-utility amounts-for-which-they-are-billed-separately--subject-to-the--\$27~~

DEPARTMENT OF HUMAN SERVICES

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per-month-limitation-for-telephone-expense-

- h) **Excess Medical Deduction.** A deduction for excess medical expenses shall be allowed for households which contain an elderly or disabled member as defined at 7 CFR 271.2 (1990) and Section 121.61. The medical expenses incurred by the qualifying household member which are over \$35 will be deducted, if the expenses will not be reimbursed by insurance or a third party.

(Source: Amended at 25 Ill. Reg. 2423 effective 12/1/99)

Section 121.64 Food Stamp Benefit Amount

- a) The monthly food stamp benefit amount is determined by subtracting 30% of the adjusted net monthly income from the maximum monthly food stamp benefit amount.

- b) Maximum Monthly Food Stamp Benefit Amount:

Household size

1.....	\$130	127
2.....	\$238	234
3.....	\$341	335
4.....	\$434	426
5.....	\$515	506
6.....	\$618	607
7.....	\$683	671
8.....	\$781	767
Each Additional Member.....	+\$ 98	96

- c) All one and two-person households will receive a minimum monthly food stamp benefit amount of \$10. \$10-00

- d) September Food Stamp Benefit Amount Adjustment

The annual revisions of maximum gross and net income standards, standard deduction, maximum excess shelter deduction and food stamp benefit amounts are effective October 1st of each year. Because the September fiscal month of certain households includes days which fall in the October calendar month, the portion of the September fiscal food stamp benefit amount covering October 1st and later must be increased to reflect the new standards.

(Source: Amended at 25 Ill. Reg. 2423 effective 12/1/99)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED REPEALER

- 1) **Heading of the Part:** Disadvantaged Business Enterprises

- 2) **Code Citation:** 92 Ill. Adm. Code 10

Section Numbers:	Adopted Action:
10.10	Repeal
10.20	Repeal
10.30	Repeal
10.40	Repeal
10.50	Repeal
10.60	Repeal
10.70	Repeal
10.80	Repeal
10.90	Repeal

- 4) **Statutory Authority:** Implementing and authorized by Section 5 of the Illinois Purchasing Act [30 ILCS 505/5] and by Sections 3-101, 3-103 and 4-201.1 of the Illinois Highway Code [605 ILCS 5/3-101, 3-103 and 4-201.1].

- 5) **Effective Date of Repealer:** January 29, 2001

- 6) **Does this rulemaking contain an automatic repeal date?** No

- 7) **Does this repealer contain incorporations by reference?** Yes

- 8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

- 9) **Notice of Proposal Published in Illinois Register:** October 6, 2000, 24 Ill. Reg. 14649

- 10) **Has JCAR issued a Statement of Objections to this repealer?** No

- 11) **Differences between proposal and final version:** None

- 12) **Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR?** No changes were necessary.

- 13) **Will this repealer replace an emergency repealer currently in effect?** No

- 14) **Are there any repealers pending on this Part?** No

- 15) **Summary and Purpose of Repealer:** By this Notice, the Department is repealing Part 10 because certification decisions are now made based upon the more comprehensive standards and procedures contained in 49 CFR 26, Subpart D. 49 CFR 26 was newly created at 64 FR 5126, February 2, 1999.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED REPEALER

Part 10 was founded upon 49 CFR 23 and addressed procedures associated with certification under that regulation. However, 49 CFR 23 has been totally replaced by 49 CFR 26. Certification decisions are now being made under 49 CFR 26, Subpart D without need of augmentation by a state rule. Therefore, this Part is being repealed.

- 16) Information and questions regarding this adopted repealer shall be directed to:

Ms. Ana Cecilia Velasco, Bureau Chief
Illinois Department of Transportation
Bureau of Small Business Enterprises
2300 South Dirksen Parkway
Springfield, Illinois 62764
(217) 785-5947

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Food Stamps
- 2) Code Citation: 89 Ill. Adm. Code 121
- 3) Section Numbers: Emergency Action:
121.63 Amendment
- 4) Statutory Authority: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].
- 5) Effective Date of Amendments: January 29, 2001
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: N/A
- 7) Date filed with the Index Department: January 29, 2001
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection:
- 9) Reason for Emergency: This rulemaking increases the State Utility Standard effective February 1, 2001 for computation of Food Stamp benefits. This rule change is an emergency change due to the anticipated increase in heating costs this winter. This is an agency initiative to respond to the needs of Illinois' low income population who depend on the Food Stamp program to provide adequate nutrition for themselves and their families.
- 10) A Complete Description of the Subject and Issues Involved: This rulemaking increases the State Utility Standard used for computation for Food Stamp benefits.
- 11) Are there any other amendments pending on this Part? No
- 12) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.
- 13) Information and questions regarding this amendment shall be directed to:

Ms. Susan Weir, Bureau Chief
Bureau Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
Telephone number: (217) 785-9772

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 121

FOOD STAMPS

SUBPART A: APPLICATION PROCEDURES

Section

- 121.1 Application for Assistance
- 121.2 Time Limitations on the Disposition of an Application
- 121.3 Approval of an Application and Initial Authorization of Assistance
- 121.4 Denial of an Application
- 121.5 Client Cooperation
- 121.6 Emergency Assistance
- 121.7 Expedited Services
- 121.10 Interviews

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section

- 121.18 Work Requirement
- 121.19 Ending a Voluntary Quit Disqualification (Repealed)
- 121.20 Citizenship
- 121.21 Residence
- 121.22 Social Security Numbers
- 121.23 Work Registration/Participation Requirements
- 121.24 Individuals Exempt From Work Registration Requirements
- 121.25 Failure to Comply with Work Provisions
- 121.26 Period of Sanction
- 121.27 Voluntary Job Quit/Reduction in Work Hours
- 121.28 Good Cause for Voluntary Job Quit/Reduction in Work Hours
- 121.29 Exemptions from Voluntary Quit/Reduction in Work Hour Rules

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section

- 121.30 Unearned Income
- 121.31 Exempt Unearned Income
- 121.32 Education Benefits
- 121.33 Unearned Income In-Kind
- 121.34 Lump Sum Payments and Income Tax Refunds
- 121.40 Earned Income
- 121.41 Budgeting Earned Income
- 121.50 Exempt Earned Income
- 121.51 Income from Work/Study/Training Programs
- 121.52 Earned Income from Roomer and Boarder

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121.53 Income From Rental Property
 121.54 Earned Income In-Kind
 121.55 Sponsors of Aliens
 121.57 Assets
 121.58 Exempt Assets
 121.59 Asset Disregards

SUBPART D: ELIGIBILITY STANDARDS

Section

121.60 Net Monthly Income Eligibility Standards
 121.61 Gross Monthly Income Eligibility Standards
 121.62 Income Which Must Be Annualized
 121.63 Deductions From Monthly Income
EMERGENCY
 121.64 Food Stamp Benefit Amount

SUBPART E: HOUSEHOLD CONCEPT

Section

121.70 Composition of the Assistance Unit
 121.71 Living Arrangement
 121.72 Nonhousehold Members
 121.73 Ineligible Household Members
 121.74 Strikers
 121.75 Students
 121.76 Households Receiving AFDC, SSI, Interim Assistance and/or GA -
 Categorical Eligibility

SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

Section

121.80 Fraud Disqualification (Renumbered)
 121.81 Initiation of Administrative Fraud Hearing (Repealed)
 121.82 Definition of Fraud (Renumbered)
 121.83 Notification To Applicant Households (Renumbered)
 121.84 Disqualification Upon Finding of Fraud (Renumbered)
 121.85 Court Imposed Disqualification (Renumbered)
 121.90 Monthly Reporting and Retrospective Budgeting (Repealed)
 121.91 Monthly Reporting (Repealed)
 121.92 Retrospective Budgeting
 121.93 Issuance of Food Stamp Benefits
 121.94 Replacement of the EBT Card or Food Stamp Benefits
 121.95 Restoration of Lost Benefits
 121.96 Uses For Food Coupons
 121.97 Supplemental Payments
 121.98 Client Training for the Electronic Benefits Transfer (EBT) System
 121.105 State Food Program (Repealed)

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NOTICE OF EMERGENCY AMENDMENTS

121.107 New State Food Program
 121.120 Recertification of Eligibility
 121.130 Residents of Shelters for Battered Women and their Children
 121.131 Fleeing Felons and Probation/Parole Violators
 121.135 Incorporation By Reference
 121.140 Small Group Living Arrangement Facilities and Drug/Alcoholic Treatment Centers
 121.145 Quarterly Reporting

SUBPART G: INTENTIONAL VIOLATIONS OF THE PROGRAM

Section

121.150 Definition of Intentional Violations of the Program
 121.151 Penalties for Intentional Violations of the Program
 121.152 Notification To Applicant Households
 121.153 Disqualification Upon Finding of Intentional Violation of the Program
 121.154 Court Imposed Disqualification

SUBPART H: FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM

Section

121.160 Persons Required to Participate
 121.162 Participation and Cooperation Requirements
 121.164 Orientation
 121.166 Assessment and Employability Plan
 121.170 Job Search Component
 121.172 Basic Education Component
 121.174 Job Readiness Component
 121.176 Work Experience Component
 121.177 Illinois Works Component
 121.178 Job Training Component
 121.179 JTPA Employability Services Component
 121.180 Grant Diversion Component (Repealed)
 121.182 Earnfare Component
 121.184 Sanctions
 121.186 Good Cause for Failure to Cooperate
 121.188 Supportive Services
 121.190 Conciliation and Fair Hearings
 121.200 Types of Claims (Recodified)
 121.201 Establishing a Claim for Intentional Violation of the Program (Recodified)
 121.202 Establishing a Claim for Unintentional Household Errors and Administrative Errors (Recodified)
 121.203 Collecting Claim Against Households (Recodified)
 121.204 Failure to Respond to Initial Demand Letter (Recodified)
 121.205 Methods of Repayment of Food Stamp Claims (Recodified)
 121.206 Determination of Monthly Allotment Reductions (Recodified)
 121.207 Failure to Make Payment in Accordance with Repayment Schedule

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NOTICE OF EMERGENCY AMENDMENTS

(Recodified)

121.208 Suspension and Termination of Claims (Recodified)

SUBPART I: WORK REQUIREMENT FOR FOOD STAMPS

Section

- 121.220 Work Requirement Components
121.221 Meeting the Work Requirement with the Earnfare Component
121.222 Volunteer Community Work Component
121.223 Work Experience Component
121.224 Supportive Service Payments to Meet the Work Requirement
121.225 Meeting the Work Requirement with the Illinois Works Component
121.226 Meeting the Work Requirement with the JTPA Employability Services Component

AUTHORITY: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].

SOURCE: Adopted December 30, 1977; amended at 3 Ill. Reg. 5, p. 875, effective February 2, 1979; amended at 3 Ill. Reg. 31, p. 109, effective August 3, 1979; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 41, p. 165, effective October 11, 1979; amended at 3 Ill. Reg. 42, p. 230, effective October 9, 1979; amended at 3 Ill. Reg. 44, p. 173, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 3, p. 49, effective January 9, 1980; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 23, 1980; amended at 4 Ill. Reg. 10, p. 253, effective February 27, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 17, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1131, effective January 16, 1981; amended at 5 Ill. Reg. 4586, effective April 15, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 12736, effective October 29, 1981; amended at 6 Ill. Reg. 1653, effective January 17, 1982; amended at 6 Ill. Reg. 2707, effective March 2, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10208, effective August 9, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 5715, effective May 1, 1983; amended at 7 Ill. Reg. 8118, effective June 24, 1983; peremptory amendment at 7 Ill. Reg. 12899, effective October 1, 1983; amended at 7 Ill. Reg. 13655, effective

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October 4, 1983; peremptory amendment at 7 Ill. Reg. 16067, effective November 18, 1983; amended at 7 Ill. Reg. 16169, effective November 22, 1983; amended at 8 Ill. Reg. 5673, effective April 18, 1984; amended at 8 Ill. Reg. 7249, effective May 16, 1984; peremptory amendment at 8 Ill. Reg. 10086, effective July 1, 1984; amended at 8 Ill. Reg. 13284, effective July 16, 1984; amended at 8 Ill. Reg. 17900, effective September 14, 1984; amended (by adding Section being codified with no substantive change) at 8 Ill. Reg. 17898; peremptory amendment at 8 Ill. Reg. 19690, effective October 1, 1984; peremptory amendment at 8 Ill. Reg. 22145, effective November 1, 1984; amended at 9 Ill. Reg. 302, effective January 1, 1985; amended at 9 Ill. Reg. 6804, effective May 1, 1985; amended at 9 Ill. Reg. 8665, effective May 29, 1985; peremptory amendment at 9 Ill. Reg. 8898, effective July 1, 1985; amended at 9 Ill. Reg. 11334, effective July 8, 1985; amended at 9 Ill. Reg. 14334, effective September 6, 1985; peremptory amendment at 9 Ill. Reg. 15582, effective October 1, 1985; amended at 9 Ill. Reg. 16889, effective October 16, 1985; amended at 9 Ill. Reg. 19726, effective December 9, 1985; amended at 10 Ill. Reg. 229, effective December 20, 1985; peremptory amendment at 10 Ill. Reg. 7387, effective April 21, 1986; peremptory amendment at 10 Ill. Reg. 7941, effective May 1, 1986; amended at 10 Ill. Reg. 14692, effective August 29, 1986; peremptory amendment at 10 Ill. Reg. 15714, effective October 1, 1986; Sections 121.200 thru 121.208 recodified to 89 Ill. Adm. Code 165 at 10 Ill. Reg. 21094; peremptory amendment at 11 Ill. Reg. 3761, effective February 11, 1987; emergency amendment at 11 Ill. Reg. 3754, effective February 13, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 9968, effective May 15, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 10269, effective May 22, 1987; amended at 11 Ill. Reg. 10621, effective May 25, 1987; peremptory amendment at 11 Ill. Reg. 11391, effective July 1, 1987; peremptory amendment at 11 Ill. Reg. 11855, effective June 30, 1987; emergency amendment at 11 Ill. Reg. 12043, effective July 6, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13635, effective August 1, 1987; amended at 11 Ill. Reg. 14022, effective August 10, 1987; emergency amendment at 11 Ill. Reg. 15261, effective September 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 15480, effective September 4, 1987; amended at 11 Ill. Reg. 15634, effective September 11, 1987; amended at 11 Ill. Reg. 18218, effective October 30, 1987; peremptory amendment at 11 Ill. Reg. 18374, effective October 30, 1987; amended at 12 Ill. Reg. 877, effective December 30, 1987; emergency amendment at 12 Ill. Reg. 1941, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 4204, effective February 5, 1988; amended at 12 Ill. Reg. 9678, effective May 23, 1988; amended at 12 Ill. Reg. 9922, effective June 1, 1988; amended at 12 Ill. Reg. 11463, effective June 30, 1988; amended at 12 Ill. Reg. 12824, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 14045, effective August 19, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 15704, effective October 1, 1988; peremptory amendment at 12 Ill. Reg. 16271, effective October 1, 1988; amended at 12 Ill. Reg. 20161, effective November 30, 1988; amended at 13 Ill. Reg. 3890, effective March 10, 1989; amended at 13 Ill. Reg. 13619, effective August 14, 1989; peremptory amendment at 13 Ill. Reg. 15859, effective October 1, 1989; amended at 14 Ill. Reg. 729, effective January 1, 1990; amended at 14 Ill. Reg. 6349, effective April 13, 1990; amended at 14

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Ill. Reg. 13202, effective August 6, 1990; peremptory amendment at 14 Ill. Reg. 15156, effective October 1, 1990; amended at 14 Ill. Reg. 16983, effective September 30, 1990; amended at 15 Ill. Reg. 11150, effective July 22, 1991; amended at 15 Ill. Reg. 11957, effective August 12, 1991; peremptory amendment at 15 Ill. Reg. 14134, effective October 1, 1991; emergency amendment at 16 Ill. Reg. 757, effective January 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 10011, effective June 15, 1992; amended at 16 Ill. Reg. 13900, effective August 31, 1992; emergency amendment at 16 Ill. Reg. 16221, effective October 1, 1992, for a maximum of 150 days; peremptory amendment at 16 Ill. Reg. 16345, effective October 1, 1992; amended at 16 Ill. Reg. 16624, effective October 23, 1992; amended at 17 Ill. Reg. 644, effective December 31, 1992; amended at 17 Ill. Reg. 4333, effective March 19, 1993; amended at 17 Ill. Reg. 14625, effective August 26, 1993; emergency amendment at 17 Ill. Reg. 15149, effective September 7, 1993, for a maximum of 150 days; peremptory amendment at 17 Ill. Reg. 17477, effective October 1, 1993; expedited correction at 17 Ill. Reg. 21216, effective October 1, 1993; amended at 18 Ill. Reg. 2033, effective January 21, 1994; emergency amendment at 18 Ill. Reg. 2509, effective January 27, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 3427, effective February 28, 1994; amended at 18 Ill. Reg. 8921, effective June 3, 1994; amended at 18 Ill. Reg. 12829, effective August 5, 1994; amended at 18 Ill. Reg. 14103, effective August 26, 1994; amended at 19 Ill. Reg. 5626, effective March 31, 1995; amended at 19 Ill. Reg. 6648, effective May 5, 1995; emergency amendment at 19 Ill. Reg. 12705, effective September 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13595, effective October 1, 1995; amended at 20 Ill. Reg. 1593, effective January 11, 1996; peremptory amendment at 20 Ill. Reg. 2229, effective January 17, 1996; amended at 20 Ill. Reg. 7902, effective June 1, 1996; amended at 20 Ill. Reg. 11935, effective August 14, 1996; emergency amendment at 20 Ill. Reg. 13381, effective October 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 13668, effective October 8, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 3156, effective February 28, 1997; amended at 21 Ill. Reg. 7733, effective June 4, 1997; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; emergency amendment at 22 Ill. Reg. 1954, effective January 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 5502, effective March 4, 1998; amended at 22 Ill. Reg. 7969, effective May 15, 1998; emergency amendment at 22 Ill. Reg. 10660, effective June 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12167, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16230, effective September 1, 1998; amended at 22 Ill. Reg. 19787, effective October 28, 1998; emergency amendment at 22 Ill. Reg. 19934, effective November 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 20099, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 2601, effective February 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 3374, effective March 1, 1999; amended at 23 Ill. Reg. 7285, effective June 18, 1999; emergency amendment at 23 Ill. Reg. 13253, effective October 13, 1999, for a maximum of 150 days; emergency amendment at 24 Ill. Reg. 3871, effective February 24, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 4180, effective March 2, 2000; amended at 24 Ill. Reg. 10198, effective June 27, 2000; amended at 24 Ill. Reg.

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15428, effective October 10, 2000; emergency amendment at 24 Ill. Reg. 15468, effective October 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 845, effective January 5, 2001; amended at 25 Ill. Reg. 2439, effective January 25, 2001; emergency amendment at 25 Ill. Reg. 2439, effective January 29, 2001, for a maximum of 150 days.

SUBPART D: ELIGIBILITY STANDARDS

Section 121.63 Deductions From Monthly Income

EMERGENCY

- a) The deductions described in this Section shall be allowed in the determination of the adjusted net monthly food stamp income.
- b) Earned Income Deduction. Eighty percent of total gross earned income is considered. See Sections 121.40 through 121.54 for a description of earned income.
- c) Standard Deduction. The standard deduction is \$134 per household per month except for cases in which the person receiving the food stamp benefits also receives TANF cash assistance. Those households receive a reduced amount of the standard deduction as negotiated between the Food and Nutrition Service and the Department.
- d) Dependent Care Deduction
 - 1) The dependent care deduction consists of payments for the care of a child or other dependent when necessary for a household member to accept or continue employment or to seek employment in compliance with the job search criteria (contained in 89 Ill. Adm. Code 112.70 through 112.73) or to attend training or pursue education which is preparatory for employment.
 - 2) The amount of the deduction is to be determined by the actual costs for care and is not to exceed \$200 per month for each child under age 2 and \$175 per month for each other dependent household member.
- e) Child Support Deduction. The child support deduction is the amount of legally obligated child support paid by a household member to or for a nonhousehold member.
- f) Shelter Costs Deduction
 - 1) The shelter deduction is the amount of shelter costs that exceed 50% of the household's total income after the allowable deductions in subsections (b), (c), (d), and (e) of this Section have been made. The shelter deduction shall not exceed \$275.
 - 2) If the household contains a member who is elderly or disabled, as defined at 7 CFR 271.2 (1990) and Section 121.61, there is no limit on the amount of the excess shelter deduction.
 - 3) Shelter costs include only the following:
 - A) continuing charges for the shelter occupied by the household (rent, mortgage and other charges leading to the ownership of the shelter, including interest on such charges);
 - B) property taxes, State and local assessments and insurance on

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- the structure itself; and
- C) utility costs, as described in subsection (g) of this Section.
- 4) Shelter costs for a home temporarily unoccupied by the household because of employment or training away from home, illness or abandonment caused by a natural disaster or casualty loss, if:
- A) the household intends to return to the home;
 - B) the current occupants of the home, if any, are not claiming the shelter costs for food stamp purposes; and
 - C) the home is not leased or rented during the absence of the household.
- 5) Charges for repair of a home which was damaged or destroyed due to a natural disaster. Shelter costs shall not include repair charges which have been or will be reimbursed by private or public relief agencies, insurance companies or any other source.
- g) Utility Costs
- 1) Utility costs include:
 - A) the cost of heating and cooking fuel, air conditioning, electricity, water, sewerage, garbage and trash collection;
 - B) basic service fee for one telephone (including tax on the basic fee) of \$27.00; and
 - C) fees charged by the utility provider for initial installation.
 - 2) Utility deposits are not considered to be utility costs.
 - 3) Those households that are billed for heating or air conditioning, or both, or heating, air conditioning and electricity, must use the air conditioning/heating standard allowance of \$255 \$222. Those households that are not billed for air conditioning or heating but are billed for electricity must use the electricity standard allowance of \$151 \$147. Households living in rental housing who are billed on a regular basis by a landlord for costs for air conditioning, heating, or electricity must use the appropriate standard. If the air conditioning/heating standard allowance or the electricity standard allowance is used, then no other utility costs may be claimed. If actual utility costs are allowed because the household does not qualify for either standard, then actual, verified costs may be claimed, except that if a separately-billed phone expense is claimed only the basic telephone allowance of \$27 per month is allowed.
 - 4) A household that is billed less often than monthly for its costs for heating, air conditioning, or electricity must continue to use the air conditioning/heating standard allowance or the electricity standard allowance, whichever is appropriate, between billing months.
 - 5) Households in public housing or privately-owned rental units that receive a bill for over-usage are not entitled to use the air conditioning/heating standard allowance or the electricity standard allowance. When households (as defined at 7 CFR

DEPARTMENT OF HUMAN SERVICES

NOTICE OF EMERGENCY AMENDMENTS

- 273.1(a) (1990)) live together, the air conditioning/heating standard allowance or the electricity standard allowance, whichever is appropriate, shall be divided equally among the households that contribute toward the utility costs whether or not each household participates in the program.
- 6) Households whose expense for heat or electricity, or both, is covered by indirect energy assistance payments under the Illinois Home Energy Assistance Program (47 Ill. Adm. Code 100) shall be entitled to the air conditioning/heating standard allowance or the electricity standard allowance, whichever is appropriate (7 CFR 273.9 and 273.10(d)(6) (1990)). The provisions of subsection (f)(3) of this Section are applicable to households whose expenses for heating or electricity, or both, are covered by indirect energy assistance payments.
- h) Excess Medical Deduction. A deduction for excess medical expenses shall be allowed for households which contain an elderly or disabled member as defined at 7 CFR 271.2 (1990) and Section 121.61. The medical expenses incurred by the qualifying household member which are over \$35 will be deducted, if the expenses will not be reimbursed by insurance or a third party.

(Source: Amended by emergency rulemaking at 25 Ill. Reg. effective January 29, 2001, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of January 23, 2001 through January 29, 2001 and have been scheduled for review by the Committee at its February 21, 2001 meeting in Springfield. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
3/7/01	Department of Insurance, Derivative Instruments (50 Ill Adm Code 806)	11/17/00 24 Ill Reg 16883	2/21/01
3/9/01	Department of Human Services, Practice in Administrative Hearings (89 Ill Adm Code 14)	10/6/00 24 Ill Reg 14513	2/21/01
3/10/01	Department of Veterans' Affairs, Persian Gulf Conflict Veterans' Compensation (95 Ill Adm Code 121)	12/1/00 24 Ill Reg 17514	2/21/01
3/10/01	Department of Veterans' Affairs, The Specially Adopted Housing Grants (95 Ill Adm Code 103)	12/1/00 24 Ill Reg 17518	2/21/01
3/10/01	Department of Insurance, Variable Contract Rule (50 Ill Adm Code 1451)	9/15/00 24 Ill Reg 13801	2/21/01
3/14/01	Department of Commerce and Community Affairs, Emergency Community Services Homeless Grant Program (Repealer) (47 Ill Adm Code 125)	10/20/00 24 Ill Reg 15335	2/21/01
3/14/01	Department of Commerce and Community Affairs, Eliminate the Digital Divide Program (14 Ill Adm Code 546)	11/17/00 24 Ill Reg 16871	2/21/01